

As Amended by House Committee

Session of 2014

HOUSE BILL No. 2673

By Committee on Health and Human Services

2-13

1 AN ACT concerning the healing arts; relating to the physician assistant
2 licensure act; Kansas healing arts act; amending K.S.A. 65-2803, 65-
3 2812, 65-2833, 65-2839a, 65-2840a, 65-2842, 65-2846, 65-2850, 65-
4 2852, 65-2857, 65-2858, 65-2860, 65-2863a, 65-2864, 65-2865, 65-
5 2866, 65-28a02, 65-28a06, 65-28a07, 65-28a08, 65-28a09 and 65-
6 28a11 and K.S.A. 2013 Supp. 8-1001, 38-2310, 40-2123, 65-1626, 65-
7 2802, 65-2809, 65-2836, 65-2837, 65-2838, 65-2838a, 65-2844, 65-
8 2851a, 65-2867, 65-28a03, 65-28a05, 65-4101, 65-6112, 65-6124, 65-
9 6129 and 72-8252 and repealing the existing sections; also repealing
10 K.S.A. 2013 Supp. 65-28a10.
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 2013 Supp. 8-1001 is hereby amended to read as
14 follows: 8-1001. (a) Any person who operates or attempts to operate a
15 vehicle within this state is deemed to have given consent, subject to the
16 provisions of this article, to submit to one or more tests of the person's
17 blood, breath, urine or other bodily substance to determine the presence of
18 alcohol or drugs. The testing deemed consented to herein shall include all
19 quantitative and qualitative tests for alcohol and drugs. A person who is
20 dead or unconscious shall be deemed not to have withdrawn the person's
21 consent to such test or tests, which shall be administered in the manner
22 provided by this section.

23 (b) A law enforcement officer shall request a person to submit to a
24 test or tests deemed consented to under subsection (a): (1) If, at the time of
25 the request, the officer has reasonable grounds to believe the person was
26 operating or attempting to operate a vehicle while under the influence of
27 alcohol or drugs, or both, or to believe that the person was driving a
28 commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments
29 thereto, while having alcohol or other drugs in such person's system, or
30 was under the age of 21 years and was operating or attempting to operate a
31 vehicle while having alcohol or other drugs in such person's system; and
32 one of the following conditions exists: (A) The person has been arrested or
33 otherwise taken into custody for any violation of any state statute, county
34 resolution or city ordinance; or (B) the person has been involved in a
35 vehicle accident or collision resulting in property damage or personal
36 injury other than serious injury; or (2) if the person was operating or

1 attempting to operate a vehicle and such vehicle has been involved in an
2 accident or collision resulting in serious injury or death of any person and
3 the operator could be cited for any traffic offense, as defined in K.S.A. 8-
4 2117, and amendments thereto. The traffic offense violation shall
5 constitute probable cause for purposes of paragraph (2). The test or tests
6 under paragraph (2) shall not be required if a law enforcement officer has
7 reasonable grounds to believe the actions of the operator did not contribute
8 to the accident or collision. The law enforcement officer directing
9 administration of the test or tests may act on personal knowledge or on the
10 basis of the collective information available to law enforcement officers
11 involved in the accident investigation or arrest.

12 (c) If a law enforcement officer requests a person to submit to a test
13 of blood under this section, the withdrawal of blood at the direction of the
14 officer may be performed only by: (1) A person licensed to practice
15 medicine and surgery, licensed as a ~~physician's~~ *physician* assistant, or a
16 person acting under the direction of any such licensed person; (2) a
17 registered nurse or a licensed practical nurse; (3) any qualified medical
18 technician, including, but not limited to, an emergency medical technician-
19 intermediate, mobile intensive care technician, an emergency medical
20 technician-intermediate defibrillator, an advanced emergency medical
21 technician or a paramedic, as those terms are defined in K.S.A. 65-6112,
22 and amendments thereto, authorized by medical protocol; or (4) a
23 phlebotomist.

24 (d) A law enforcement officer may direct a medical professional
25 described in this section to draw a sample of blood from a person:

26 (1) If the person has given consent and meets the requirements of
27 subsection (b);

28 (2) if medically unable to consent, if the person meets the
29 requirements of paragraph (2) of subsection (b); or

30 (3) if the person refuses to submit to and complete a test, if the person
31 meets the requirements of paragraph (2) of subsection (b).

32 (e) When so directed by a law enforcement officer through a written
33 statement, the medical professional shall withdraw the sample as soon as
34 practical and shall deliver the sample to the law enforcement officer or
35 another law enforcement officer as directed by the requesting law
36 enforcement officer as soon as practical, provided the collection of the
37 sample does not jeopardize the person's life, cause serious injury to the
38 person or seriously impede the person's medical assessment, care or
39 treatment. The medical professional authorized herein to withdraw the
40 blood and the medical care facility where the blood is drawn may act on
41 good faith that the requirements have been met for directing the
42 withdrawing of blood once presented with the written statement provided
43 for under this subsection. The medical professional shall not require the

1 person to sign any additional consent or waiver form. In such a case, the
2 person authorized to withdraw blood and the medical care facility shall not
3 be liable in any action alleging lack of consent or lack of informed
4 consent.

5 (f) Such sample or samples shall be an independent sample and not
6 be a portion of a sample collected for medical purposes. The person
7 collecting the blood sample shall complete the collection portion of a
8 document provided by law enforcement.

9 (g) If a person must be restrained to collect the sample pursuant to
10 this section, law enforcement shall be responsible for applying any such
11 restraint utilizing acceptable law enforcement restraint practices. The
12 restraint shall be effective in controlling the person in a manner not to
13 jeopardize the person's safety or that of the medical professional or
14 attending medical or health care staff during the drawing of the sample and
15 without interfering with medical treatment.

16 (h) A law enforcement officer may request a urine sample upon
17 meeting the requirements of paragraph (1) of subsection (b) and shall
18 request a urine sample upon meeting the requirements of paragraph (2) of
19 subsection (b).

20 (i) If a law enforcement officer requests a person to submit to a test of
21 urine under this section, the collection of the urine sample shall be
22 supervised by: (1) A person licensed to practice medicine and surgery,
23 licensed as a ~~physician's~~ *physician* assistant, or a person acting under the
24 direction of any such licensed person; (2) a registered nurse or a licensed
25 practical nurse; or (3) a law enforcement officer of the same sex as the
26 person being tested. The collection of the urine sample shall be conducted
27 out of the view of any person other than the persons supervising the
28 collection of the sample and the person being tested, unless the right to
29 privacy is waived by the person being tested. When possible, the
30 supervising person shall be a law enforcement officer. The results of
31 qualitative testing for drug presence shall be admissible in evidence and
32 questions of accuracy or reliability shall go to the weight rather than the
33 admissibility of the evidence. If the person is medically unable to provide
34 a urine sample in such manner due to the injuries or treatment of the
35 injuries, the same authorization and procedure as used for the collection of
36 blood in subsections (d) and (e) shall apply to the collection of a urine
37 sample.

38 (j) No law enforcement officer who is acting in accordance with this
39 section shall be liable in any civil or criminal proceeding involving the
40 action.

41 (k) Before a test or tests are administered under this section, the
42 person shall be given oral and written notice that:

43 (1) Kansas law requires the person to submit to and complete one or

1 more tests of breath, blood or urine to determine if the person is under the
2 influence of alcohol or drugs, or both;

3 (2) the opportunity to consent to or refuse a test is not a constitutional
4 right;

5 (3) there is no constitutional right to consult with an attorney
6 regarding whether to submit to testing;

7 (4) if the person refuses to submit to and complete any test of breath,
8 blood or urine hereafter requested by a law enforcement officer, the person
9 may be charged with a separate crime of refusing to submit to a test to
10 determine the presence of alcohol or drugs, which carries criminal
11 penalties that are greater than or equal to the criminal penalties for the
12 crime of driving under the influence, if such person has:

13 (A) Any prior test refusal as defined in K.S.A. 8-1013, and
14 amendments thereto, which occurred: (i) On or after July 1, 2001; and (ii)
15 when such person was 18 years of age or older; or

16 (B) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144,
17 and amendments thereto, or a violation of an ordinance of any city or
18 resolution of any county which prohibits the acts that such section
19 prohibits, or entering into a diversion agreement in lieu of further criminal
20 proceedings on a complaint alleging any such violations, which occurred:
21 (i) On or after July 1, 2001; and (ii) when such person was 18 years of age
22 or older;

23 (5) if the person refuses to submit to and complete any test of breath,
24 blood or urine hereafter requested by a law enforcement officer, the
25 person's driving privileges will be suspended for one year for the first or
26 subsequent occurrence;

27 (6) if the person submits to and completes the test or tests and the test
28 results show:

29 (A) An alcohol concentration of .08 or greater, the person's driving
30 privileges will be suspended for 30 days for the first occurrence and one
31 year for the second or subsequent occurrence; or

32 (B) an alcohol concentration of .15 or greater, the person's driving
33 privileges will be suspended for one year for the first or subsequent
34 occurrence;

35 (7) refusal to submit to testing may be used against the person at any
36 trial on a charge arising out of the operation or attempted operation of a
37 vehicle while under the influence of alcohol or drugs, or both;

38 (8) the results of the testing may be used against the person at any
39 trial on a charge arising out of the operation or attempted operation of a
40 vehicle while under the influence of alcohol or drugs, or both; and

41 (9) after the completion of the testing, the person has the right to
42 consult with an attorney and may secure additional testing, which, if
43 desired, should be done as soon as possible and is customarily available

1 from medical care facilities willing to conduct such testing.

2 (l) If a law enforcement officer has reasonable grounds to believe that
3 the person has been driving a commercial motor vehicle, as defined in
4 K.S.A. 8-2,128, and amendments thereto, while having alcohol or other
5 drugs in such person's system, the person shall also be provided the oral
6 and written notice pursuant to K.S.A. 8-2,145, and amendments thereto.
7 Any failure to give the notices required by K.S.A. 8-2,145, and
8 amendments thereto, shall not invalidate any action taken as a result of the
9 requirements of this section. If a law enforcement officer has reasonable
10 grounds to believe that the person has been operating or attempting to
11 operate a vehicle while having alcohol or other drugs in such person's
12 system and such person was under 21 years of age, the person also shall be
13 given the notices required by K.S.A. 8-1567a, and amendments thereto.
14 Any failure to give the notices required by K.S.A. 8-1567a, and
15 amendments thereto, shall not invalidate any action taken as a result of the
16 requirements of this section.

17 (m) After giving the foregoing information, a law enforcement officer
18 shall request the person to submit to testing. The selection of the test or
19 tests shall be made by the officer. If the test results show a blood or breath
20 alcohol concentration of .08 or greater, the person's driving privileges shall
21 be subject to suspension, or suspension and restriction, as provided in
22 K.S.A. 8-1002 and 8-1014, and amendments thereto.

23 (n) The person's refusal shall be admissible in evidence against the
24 person at any trial on a charge arising out of the alleged operation or
25 attempted operation of a vehicle while under the influence of alcohol or
26 drugs, or both. The person's refusal shall be admissible in evidence against
27 the person at any trial on a charge arising out of the alleged violation of
28 K.S.A. 2013 Supp. 8-1025, and amendments thereto.

29 (o) If a law enforcement officer had reasonable grounds to believe the
30 person had been driving a commercial motor vehicle, as defined in K.S.A.
31 8-2,128, and amendments thereto, and the test results show a blood or
32 breath alcohol concentration of .04 or greater, the person shall be
33 disqualified from driving a commercial motor vehicle, pursuant to K.S.A.
34 8-2,142, and amendments thereto. If a law enforcement officer had
35 reasonable grounds to believe the person had been driving a commercial
36 motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and
37 the test results show a blood or breath alcohol concentration of .08 or
38 greater, or the person refuses a test, the person's driving privileges shall be
39 subject to suspension, or suspension and restriction, pursuant to this
40 section, in addition to being disqualified from driving a commercial motor
41 vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

42 (p) An officer shall have probable cause to believe that the person
43 operated a vehicle while under the influence of alcohol or drugs, or both, if

1 the vehicle was operated by such person in such a manner as to have
2 caused the death of or serious injury to a person. In such event, such test or
3 tests may be made pursuant to a search warrant issued under the authority
4 of K.S.A. 22-2502, and amendments thereto, or without a search warrant
5 under the authority of K.S.A. 22-2501, and amendments thereto.

6 (q) Failure of a person to provide an adequate breath sample or
7 samples as directed shall constitute a refusal unless the person shows that
8 the failure was due to physical inability caused by a medical condition
9 unrelated to any ingested alcohol or drugs.

10 (r) It shall not be a defense that the person did not understand the
11 written or oral notice required by this section.

12 (s) No test results shall be suppressed because of technical
13 irregularities in the consent or notice required pursuant to this act.

14 (t) Nothing in this section shall be construed to limit the admissibility
15 at any trial of alcohol or drug concentration testing results obtained
16 pursuant to a search warrant.

17 (u) Upon the request of any person submitting to testing under this
18 section, a report of the results of the testing shall be made available to such
19 person.

20 (v) This act is remedial law and shall be liberally construed to
21 promote public health, safety and welfare.

22 (w) As used in this section, "serious injury" means a physical injury
23 to a person, as determined by law enforcement, which has the effect of,
24 prior to the request for testing:

25 (1) Disabling a person from the physical capacity to remove
26 themselves from the scene;

27 (2) renders a person unconscious;

28 (3) the immediate loss of or absence of the normal use of at least one
29 limb;

30 (4) an injury determined by a physician to require surgery; or

31 (5) otherwise indicates the person may die or be permanently disabled
32 by the injury.

33 Sec. 2. K.S.A. 2013 Supp. 38-2310 is hereby amended to read as
34 follows: 38-2310.

35 (1) The judge of the district court and members of the staff of the
36 court designated by the judge;

37 (2) parties to the proceedings and their attorneys;

38 (3) the department of social and rehabilitation services;

39 (4) the juvenile's court appointed special advocate, any officer of a
40 public or private agency or institution or any individual having custody of a
41 juvenile under court order or providing educational, medical or mental
42 health services to a juvenile;

43 (5) any educational institution, to the extent necessary to enable the

1 educational institution to provide the safest possible environment for its
2 pupils and employees;

3 (6) any educator, to the extent necessary to enable the educator to
4 protect the personal safety of the educator and the educator's pupils;

5 (7) law enforcement officers or county or district attorneys, or their
6 staff, when necessary for the discharge of their official duties;

7 (8) the central repository, as defined by K.S.A. 22-4701, and
8 amendments thereto, for use only as a part of the juvenile offender
9 information system established under K.S.A. 2013 Supp. 38-2326, and
10 amendments thereto;

11 (9) juvenile intake and assessment workers;

12 (10) the juvenile justice authority;

13 (11) juvenile community corrections officers;

14 (12) any other person when authorized by a court order, subject to
15 any conditions imposed by the order; and

16 (13) as provided in subsection (c).

17 (b) The provisions of this section shall not apply to records
18 concerning:

19 (1) A violation, by a person 14 or more years of age, of any provision
20 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
21 of any city ordinance or county resolution which relates to the regulation
22 of traffic on the roads, highways or streets or the operation of self-
23 propelled or nonself-propelled vehicles of any kind;

24 (2) a violation, by a person 16 or more years of age, of any provision
25 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
26 or

27 (3) an offense for which the juvenile is prosecuted as an adult.

28 (c) All records of law enforcement officers and agencies and
29 municipal courts concerning an offense committed or alleged to have been
30 committed by a juvenile 14 or more years of age shall be subject to the
31 same disclosure restrictions as the records of adults. Information
32 identifying victims and alleged victims of sex offenses, as defined in
33 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
34 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or
35 K.S.A. 2013 Supp. 21-6419 through 21-6421, and amendments thereto,
36 shall not be disclosed or open to public inspection under any
37 circumstances. Nothing in this section shall prohibit the victim or any
38 alleged victim of any sex offense from voluntarily disclosing such victim's
39 identity.

40 (d) Relevant information, reports and records, shall be made available
41 to the department of corrections upon request and a showing that the
42 former juvenile has been convicted of a crime and placed in the custody of
43 the secretary of corrections.

1 (e) All records, reports and information obtained as a part of the
2 juvenile intake and assessment process for juveniles shall be confidential,
3 and shall not be disclosed except as provided by statutory law and rules
4 and regulations promulgated by the commissioner thereunder.

5 (1) Any court of record may order the disclosure of such records,
6 reports and other information to any person or entity.

7 (2) The head of any juvenile intake and assessment program, certified
8 by the commissioner of juvenile justice, may authorize disclosure of such
9 records, reports and other information to:

10 (A) A person licensed to practice the healing arts who has before that
11 person a juvenile whom the person reasonably suspects may be abused or
12 neglected;

13 (B) a court-appointed special advocate for a juvenile or an agency
14 having the legal responsibility or authorization to care for, treat or
15 supervise a juvenile;

16 (C) a parent or other person responsible for the welfare of a juvenile,
17 or such person's legal representative, with protection for the identity of
18 persons reporting and other appropriate persons;

19 (D) the juvenile, the attorney and a guardian ad litem, if any, for such
20 juvenile;

21 (E) the police or other law enforcement agency;

22 (F) an agency charged with the responsibility of preventing or
23 treating physical, mental or emotional abuse or neglect or sexual abuse of
24 children, if the agency requesting the information has standards of
25 confidentiality as strict or stricter than the requirements of the Kansas code
26 for care of children or the revised Kansas juvenile justice code, whichever
27 is applicable;

28 (G) members of a multidisciplinary team under this code;

29 (H) an agency authorized by a properly constituted authority to
30 diagnose, care for, treat or supervise a child who is the subject of a report
31 or record of child abuse or neglect;

32 (I) any individual, or public or private agency authorized by a
33 properly constituted authority to diagnose, care for, treat or supervise a
34 juvenile who is the subject of a report or record of child abuse or neglect,
35 specifically including the following: Physicians, psychiatrists, nurses,
36 nurse practitioners, psychologists, licensed social workers, child
37 development specialists, ~~physicians'~~ *physician* assistants, community
38 mental health workers, alcohol and drug abuse counselors and licensed or
39 registered child care providers;

40 (J) a citizen review board pursuant to K.S.A. 2013 Supp. 38-2207,
41 and amendments thereto;

42 (K) an educational institution to the extent necessary to enable such
43 institution to provide the safest possible environment for pupils and

1 employees of the institution;

2 (L) any educator to the extent necessary for the protection of the
3 educator and pupils; and

4 (M) any juvenile intake and assessment worker of another certified
5 juvenile intake and assessment program.

6 Sec. 3. K.S.A. 2013 Supp. 40-2123 is hereby amended to read as
7 follows: 40-2123. (a) The plan shall offer coverage to every eligible person
8 pursuant to which such person's covered expenses shall be indemnified or
9 reimbursed subject to the provisions of K.S.A. 40-2124, and amendments
10 thereto.

11 (b) Except for those expenses set forth in subsection (c) of this
12 section, expenses covered under the plan shall include expenses for:

13 (1) Services of persons licensed to practice medicine and surgery
14 which are medically necessary for the diagnosis or treatment of injuries,
15 illnesses or conditions;

16 (2) services of advanced registered nurse practitioners who hold a
17 certificate of qualification from the board of nursing to practice in an
18 expanded role or physicians assistants acting under the direction of a
19 ~~responsible~~ *supervising* physician when such services are provided at the
20 direction of a person licensed to practice medicine and surgery and meet
21 the requirements of paragraph (b)(1) above;

22 (3) services of licensed dentists when such procedures would
23 otherwise be performed by persons licensed to practice medicine and
24 surgery;

25 (4) emergency care, surgery and treatment of acute episodes of illness
26 or disease as defined in the plan and provided in a general hospital or
27 ambulatory surgical center as such terms are defined in K.S.A. 65-425, and
28 amendments thereto;

29 (5) medically necessary diagnostic laboratory and x-ray services;

30 (6) drugs and controlled substances prescribed by a practitioner, as
31 defined in K.S.A. 65-1626, and amendments thereto, or drugs and
32 controlled substances prescribed by a mid-level practitioner as defined in
33 K.S.A. 65-1626, and amendments thereto. Coverage for outpatient
34 prescriptions shall be subject to a mandatory 50% coinsurance provision,
35 and coverage for prescriptions administered to inpatients shall be subject
36 to a coinsurance provision as established in the plan; and

37 (7) subject to the approval of the commissioner, the board shall also
38 review and recommend the inclusion of coverage for mental health
39 services and such other primary and preventive health care services as the
40 board determines would not materially impair affordability of the plan.

41 (c) Expenses not covered under the plan shall include expenses for:

42 (1) Illness or injury due to an act of war;

43 (2) services rendered prior to the effective date of coverage under this

- 1 plan for the person on whose behalf the expense is incurred;
- 2 (3) services for which no charge would be made in the absence of
3 insurance or for which the insured bears no legal obligation to pay;
- 4 (4) (A) services or charges incurred by the insured which are
5 otherwise covered by:
- 6 (i) Medicare or state law or programs;
- 7 (ii) medical services provided for members of the United States
8 armed forces and their dependents or for employees of such armed forces;
- 9 (iii) military service-connected disability benefits;
- 10 (iv) other benefit or entitlement programs provided for by the laws of
11 the United States (except title XIX of the social security act of 1965);
- 12 (v) workers compensation or similar programs addressing injuries,
13 diseases, or conditions incurred in the course of employment covered by
14 such programs;
- 15 (vi) benefits payable without regard to fault pursuant to any motor
16 vehicle or other liability insurance policy or equivalent self-insurance.
- 17 (B) This exclusion shall not apply to services or charges which
18 exceed the benefits payable under the applicable programs listed above
19 and which are otherwise eligible for payment under this section.
- 20 (5) Services the provision of which is not within the scope of the
21 license or certificate of the institution or individual rendering such service;
- 22 (6) that part of any charge for services or articles rendered or
23 prescribed which exceeds the rate established by K.S.A. 40-2131, and
24 amendments thereto, for such services;
- 25 (7) services or articles not medically necessary;
- 26 (8) care which is primarily custodial or domiciliary in nature;
- 27 (9) cosmetic surgery unless provided as the result of an injury or
28 medically necessary surgical procedure;
- 29 (10) eye surgery if corrective lenses would alleviate the problem;
- 30 (11) experimental services or supplies not generally recognized as the
31 normal mode of treatment for the illness or injury involved;
- 32 (12) service of a blood donor and any fee for failure of the insured to
33 replace the first three pints of blood provided in each calendar year; and
- 34 (13) personal supplies or services provided by a health care facility or
35 any other nonmedical or nonprescribed supply or service.
- 36 (d) Except as expressly provided for in this act, no law requiring the
37 coverage or the offer of coverage of a health care service or benefit shall
38 apply to the plan.
- 39 (e) A plan may incorporate provisions that will direct covered persons
40 to the most appropriate lowest cost health care provider available.
- 41 Sec. 4. K.S.A. 2013 Supp. 65-1626 is hereby amended to read as
42 follows: 65-1626. For the purposes of this act:
- 43 (a) "Administer" means the direct application of a drug, whether by

1 injection, inhalation, ingestion or any other means, to the body of a patient
2 or research subject by:

3 (1) A practitioner or pursuant to the lawful direction of a practitioner;

4 (2) the patient or research subject at the direction and in the presence
5 of the practitioner; or

6 (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments
7 thereto.

8 (b) "Agent" means an authorized person who acts on behalf of or at
9 the direction of a manufacturer, distributor or dispenser but shall not
10 include a common carrier, public warehouseman or employee of the carrier
11 or warehouseman when acting in the usual and lawful course of the
12 carrier's or warehouseman's business.

13 (c) "Application service provider" means an entity that sells
14 electronic prescription or pharmacy prescription applications as a hosted
15 service where the entity controls access to the application and maintains
16 the software and records on its server.

17 (d) "Authorized distributor of record" means a wholesale distributor
18 with whom a manufacturer has established an ongoing relationship to
19 distribute the manufacturer's prescription drug. An ongoing relationship is
20 deemed to exist between such wholesale distributor and a manufacturer
21 when the wholesale distributor, including any affiliated group of the
22 wholesale distributor, as defined in section 1504 of the internal revenue
23 code, complies with any one of the following: (1) The wholesale
24 distributor has a written agreement currently in effect with the
25 manufacturer evidencing such ongoing relationship; and (2) the wholesale
26 distributor is listed on the manufacturer's current list of authorized
27 distributors of record, which is updated by the manufacturer on no less
28 than a monthly basis.

29 (e) "Board" means the state board of pharmacy created by K.S.A. 74-
30 1603, and amendments thereto.

31 (f) "Brand exchange" means the dispensing of a different drug
32 product of the same dosage form and strength and of the same generic
33 name as the brand name drug product prescribed.

34 (g) "Brand name" means the registered trademark name given to a
35 drug product by its manufacturer, labeler or distributor.

36 (h) "Chain pharmacy warehouse" means a permanent physical
37 location for drugs or devices, or both, that acts as a central warehouse and
38 performs intracompany sales or transfers of prescription drugs or devices
39 to chain pharmacies that have the same ownership or control. Chain
40 pharmacy warehouses must be registered as wholesale distributors.

41 (i) "Co-licensee" means a pharmaceutical manufacturer that has
42 entered into an agreement with another pharmaceutical manufacturer to
43 engage in a business activity or occupation related to the manufacture or

1 distribution of a prescription drug and the national drug code on the drug
2 product label shall be used to determine the identity of the drug
3 manufacturer.

4 (j) "DEA" means the U.S. department of justice, drug enforcement
5 administration.

6 (k) "Deliver" or "delivery" means the actual, constructive or
7 attempted transfer from one person to another of any drug whether or not
8 an agency relationship exists.

9 (l) "Direct supervision" means the process by which the responsible
10 pharmacist shall observe and direct the activities of a pharmacy student or
11 pharmacy technician to a sufficient degree to assure that all such activities
12 are performed accurately, safely and without risk or harm to patients, and
13 complete the final check before dispensing.

14 (m) "Dispense" means to deliver prescription medication to the
15 ultimate user or research subject by or pursuant to the lawful order of a
16 practitioner or pursuant to the prescription of a mid-level practitioner.

17 (n) "Dispenser" means a practitioner or pharmacist who dispenses
18 prescription medication.

19 (o) "Distribute" means to deliver, other than by administering or
20 dispensing, any drug.

21 (p) "Distributor" means a person who distributes a drug.

22 (q) "Drop shipment" means the sale, by a manufacturer, that
23 manufacturer's co-licensee, that manufacturer's third party logistics
24 provider, or that manufacturer's exclusive distributor, of the manufacturer's
25 prescription drug, to a wholesale distributor whereby the wholesale
26 distributor takes title but not possession of such prescription drug and the
27 wholesale distributor invoices the pharmacy, the chain pharmacy
28 warehouse, or other designated person authorized by law to dispense or
29 administer such prescription drug, and the pharmacy, the chain pharmacy
30 warehouse, or other designated person authorized by law to dispense or
31 administer such prescription drug receives delivery of the prescription
32 drug directly from the manufacturer, that manufacturer's co-licensee, that
33 manufacturer's third party logistics provider, or that manufacturer's
34 exclusive distributor, of such prescription drug. Drop shipment shall be
35 part of the "normal distribution channel."

36 (r) "Drug" means: (1) Articles recognized in the official United States
37 pharmacopoeia, or other such official compendiums of the United States,
38 or official national formulary, or any supplement of any of them; (2)
39 articles intended for use in the diagnosis, cure, mitigation, treatment or
40 prevention of disease in man or other animals; (3) articles, other than food,
41 intended to affect the structure or any function of the body of man or other
42 animals; and (4) articles intended for use as a component of any articles
43 specified in clause (1), (2) or (3) of this subsection; but does not include

1 devices or their components, parts or accessories, except that the term
2 "drug" shall not include amygdalin (laetrile) or any livestock remedy, if
3 such livestock remedy had been registered in accordance with the
4 provisions of article 5 of chapter 47 of the Kansas Statutes Annotated,
5 prior to its repeal.

6 (s) "Durable medical equipment" means technologically sophisticated
7 medical devices that may be used in a residence, including the following:
8 (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory
9 disease management devices; (4) continuous positive airway pressure
10 (CPAP) devices; (5) electronic and computerized wheelchairs and seating
11 systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator
12 (TENS) units; (8) low air loss cutaneous pressure management devices; (9)
13 sequential compression devices; (10) feeding pumps; (11) home
14 phototherapy devices; (12) infusion delivery devices; (13) distribution of
15 medical gases to end users for human consumption; (14) hospital beds;
16 (15) nebulizers; or (16) other similar equipment determined by the board
17 in rules and regulations adopted by the board.

18 (t) "Electronic prescription" means an electronically prepared
19 prescription that is authorized and transmitted from the prescriber to the
20 pharmacy by means of electronic transmission.

21 (u) "Electronic prescription application" means software that is used
22 to create electronic prescriptions and that is intended to be installed on the
23 prescriber's computers and servers where access and records are controlled
24 by the prescriber.

25 (v) "Electronic signature" means a confidential personalized digital
26 key, code, number or other method for secure electronic data transmissions
27 which identifies a particular person as the source of the message,
28 authenticates the signatory of the message and indicates the person's
29 approval of the information contained in the transmission.

30 (w) "Electronic transmission" means the transmission of an electronic
31 prescription, formatted as an electronic data file, from a prescriber's
32 electronic prescription application to a pharmacy's computer, where the
33 data file is imported into the pharmacy prescription application.

34 (x) "Electronically prepared prescription" means a prescription that is
35 generated using an electronic prescription application.

36 (y) "Exclusive distributor" means any entity that: (1) Contracts with a
37 manufacturer to provide or coordinate warehousing, wholesale distribution
38 or other services on behalf of a manufacturer and who takes title to that
39 manufacturer's prescription drug, but who does not have general
40 responsibility to direct the sale or disposition of the manufacturer's
41 prescription drug; (2) is registered as a wholesale distributor under the
42 pharmacy act of the state of Kansas; and (3) to be considered part of the
43 normal distribution channel, must be an authorized distributor of record.

1 (z) "Facsimile transmission" or "fax transmission" means the
2 transmission of a digital image of a prescription from the prescriber or the
3 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
4 is not limited to, transmission of a written prescription between the
5 prescriber's fax machine and the pharmacy's fax machine; transmission of
6 an electronically prepared prescription from the prescriber's electronic
7 prescription application to the pharmacy's fax machine, computer or
8 printer; or transmission of an electronically prepared prescription from the
9 prescriber's fax machine to the pharmacy's fax machine, computer or
10 printer.

11 (aa) "Generic name" means the established chemical name or official
12 name of a drug or drug product.

13 (bb) (1) "Institutional drug room" means any location where
14 prescription-only drugs are stored and from which prescription-only drugs
15 are administered or dispensed and which is maintained or operated for the
16 purpose of providing the drug needs of:

17 (A) Inmates of a jail or correctional institution or facility;

18 (B) residents of a juvenile detention facility, as defined by the revised
19 Kansas code for care of children and the revised Kansas juvenile justice
20 code;

21 (C) students of a public or private university or college, a community
22 college or any other institution of higher learning which is located in
23 Kansas;

24 (D) employees of a business or other employer; or

25 (E) persons receiving inpatient hospice services.

26 (2) "Institutional drug room" does not include:

27 (A) Any registered pharmacy;

28 (B) any office of a practitioner; or

29 (C) a location where no prescription-only drugs are dispensed and no
30 prescription-only drugs other than individual prescriptions are stored or
31 administered.

32 (cc) "Intermediary" means any technology system that receives and
33 transmits an electronic prescription between the prescriber and the
34 pharmacy.

35 (dd) "Intracompany transaction" means any transaction or transfer
36 between any division, subsidiary, parent or affiliated or related company
37 under common ownership or control of a corporate entity, or any
38 transaction or transfer between co-licensees of a co-licensed product.

39 (ee) "Medical care facility" shall have the meaning provided in
40 K.S.A. 65-425, and amendments thereto, except that the term shall also
41 include facilities licensed under the provisions of K.S.A. 75-3307b, and
42 amendments thereto, except community mental health centers and
43 facilities for people with intellectual disability.

1 (ff) "Manufacture" means the production, preparation, propagation,
2 compounding, conversion or processing of a drug either directly or
3 indirectly by extraction from substances of natural origin, independently
4 by means of chemical synthesis or by a combination of extraction and
5 chemical synthesis and includes any packaging or repackaging of the drug
6 or labeling or relabeling of its container, except that this term shall not
7 include the preparation or compounding of a drug by an individual for the
8 individual's own use or the preparation, compounding, packaging or
9 labeling of a drug by:

10 (1) A practitioner or a practitioner's authorized agent incident to such
11 practitioner's administering or dispensing of a drug in the course of the
12 practitioner's professional practice;

13 (2) a practitioner, by a practitioner's authorized agent or under a
14 practitioner's supervision for the purpose of, or as an incident to, research,
15 teaching or chemical analysis and not for sale; or

16 (3) a pharmacist or the pharmacist's authorized agent acting under the
17 direct supervision of the pharmacist for the purpose of, or incident to, the
18 dispensing of a drug by the pharmacist.

19 (gg) "Manufacturer" means a person licensed or approved by the
20 FDA to engage in the manufacture of drugs and devices.

21 (hh) "Mid-level practitioner" means an advanced practice registered
22 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
23 thereto, who has authority to prescribe drugs pursuant to a written protocol
24 with a ~~responsible~~ *supervising* physician under K.S.A. 65-1130, and
25 amendments thereto, or a physician assistant licensed pursuant to the
26 physician assistant licensure act who has authority to prescribe drugs
27 pursuant to a written protocol with a ~~responsible~~ *supervising* physician
28 under K.S.A. 65-28a08, and amendments thereto.

29 (ii) "Normal distribution channel" means a chain of custody for a
30 prescription-only drug that goes from a manufacturer of the prescription-
31 only drug, from that manufacturer to that manufacturer's co-licensed
32 partner, from that manufacturer to that manufacturer's third-party logistics
33 provider, or from that manufacturer to that manufacturer's exclusive
34 distributor, directly or by drop shipment, to:

35 (1) A pharmacy to a patient or to other designated persons authorized
36 by law to dispense or administer such drug to a patient;

37 (2) a wholesale distributor to a pharmacy to a patient or other
38 designated persons authorized by law to dispense or administer such drug
39 to a patient;

40 (3) a wholesale distributor to a chain pharmacy warehouse to that
41 chain pharmacy warehouse's intracompany pharmacy to a patient or other
42 designated persons authorized by law to dispense or administer such drug
43 to a patient; or

1 (4) a chain pharmacy warehouse to the chain pharmacy warehouse's
2 intracompany pharmacy to a patient or other designated persons authorized
3 by law to dispense or administer such drug to a patient.

4 (jj) "Person" means individual, corporation, government,
5 governmental subdivision or agency, partnership, association or any other
6 legal entity.

7 (kk) "Pharmacist" means any natural person licensed under this act to
8 practice pharmacy.

9 (ll) "Pharmacist-in-charge" means the pharmacist who is responsible
10 to the board for a registered establishment's compliance with the laws and
11 regulations of this state pertaining to the practice of pharmacy,
12 manufacturing of drugs and the distribution of drugs. The pharmacist-in-
13 charge shall supervise such establishment on a full-time or a part-time
14 basis and perform such other duties relating to supervision of a registered
15 establishment as may be prescribed by the board by rules and regulations.
16 Nothing in this definition shall relieve other pharmacists or persons from
17 their responsibility to comply with state and federal laws and regulations.

18 (mm) "Pharmacist intern" means: (1) A student currently enrolled in
19 an accredited pharmacy program; (2) a graduate of an accredited pharmacy
20 program serving an internship; or (3) a graduate of a pharmacy program
21 located outside of the United States which is not accredited and who has
22 successfully passed equivalency examinations approved by the board.

23 (nn) "Pharmacy," "drugstore" or "apothecary" means premises,
24 laboratory, area or other place: (1) Where drugs are offered for sale where
25 the profession of pharmacy is practiced and where prescriptions are
26 compounded and dispensed; or (2) which has displayed upon it or within it
27 the words "pharmacist," "pharmaceutical chemist," "pharmacy,"
28 "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of
29 these words or combinations of these words or words of similar import
30 either in English or any sign containing any of these words; or (3) where
31 the characteristic symbols of pharmacy or the characteristic prescription
32 sign "Rx" may be exhibited. As used in this subsection, premises refers
33 only to the portion of any building or structure leased, used or controlled
34 by the licensee in the conduct of the business registered by the board at the
35 address for which the registration was issued.

36 (oo) "Pharmacy prescription application" means software that is used
37 to process prescription information, is installed on a pharmacy's computers
38 or servers, and is controlled by the pharmacy.

39 (pp) "Pharmacy technician" means an individual who, under the
40 direct supervision and control of a pharmacist, may perform packaging,
41 manipulative, repetitive or other nondiscretionary tasks related to the
42 processing of a prescription or medication order and who assists the
43 pharmacist in the performance of pharmacy related duties, but who does

1 not perform duties restricted to a pharmacist.

2 (qq) "Practitioner" means a person licensed to practice medicine and
3 surgery, dentist, podiatrist, veterinarian, optometrist or scientific
4 investigator or other person authorized by law to use a prescription-only
5 drug in teaching or chemical analysis or to conduct research with respect
6 to a prescription-only drug.

7 (rr) "Preceptor" means a licensed pharmacist who possesses at least
8 two years' experience as a pharmacist and who supervises students
9 obtaining the pharmaceutical experience required by law as a condition to
10 taking the examination for licensure as a pharmacist.

11 (ss) "Prescriber" means a practitioner or a mid-level practitioner.

12 (tt) "Prescription" or "prescription order" means: (1) An order to be
13 filled by a pharmacist for prescription medication issued and signed by a
14 prescriber in the authorized course of such prescriber's professional
15 practice; or (2) an order transmitted to a pharmacist through word of
16 mouth, note, telephone or other means of communication directed by such
17 prescriber, regardless of whether the communication is oral, electronic,
18 facsimile or in printed form.

19 (uu) "Prescription medication" means any drug, including label and
20 container according to context, which is dispensed pursuant to a
21 prescription order.

22 (vv) "Prescription-only drug" means any drug whether intended for
23 use by man or animal, required by federal or state law, including 21 U.S.C.
24 § 353, to be dispensed only pursuant to a written or oral prescription or
25 order of a practitioner or is restricted to use by practitioners only.

26 (ww) "Probation" means the practice or operation under a temporary
27 license, registration or permit or a conditional license, registration or
28 permit of a business or profession for which a license, registration or
29 permit is granted by the board under the provisions of the pharmacy act of
30 the state of Kansas requiring certain actions to be accomplished or certain
31 actions not to occur before a regular license, registration or permit is
32 issued.

33 (xx) "Professional incompetency" means:

34 (1) One or more instances involving failure to adhere to the
35 applicable standard of pharmaceutical care to a degree which constitutes
36 gross negligence, as determined by the board;

37 (2) repeated instances involving failure to adhere to the applicable
38 standard of pharmaceutical care to a degree which constitutes ordinary
39 negligence, as determined by the board; or

40 (3) a pattern of pharmacy practice or other behavior which
41 demonstrates a manifest incapacity or incompetence to practice pharmacy.

42 (yy) "Readily retrievable" means that records kept by automatic data
43 processing applications or other electronic or mechanized record-keeping

1 systems can be separated out from all other records within a reasonable
2 time not to exceed 48 hours of a request from the board or other authorized
3 agent or that hard-copy records are kept on which certain items are
4 asterisked, redlined or in some other manner visually identifiable apart
5 from other items appearing on the records.

6 (zz) "Retail dealer" means a person selling at retail nonprescription
7 drugs which are prepackaged, fully prepared by the manufacturer or
8 distributor for use by the consumer and labeled in accordance with the
9 requirements of the state and federal food, drug and cosmetic acts. Such
10 nonprescription drugs shall not include: (1) A controlled substance; (2) a
11 prescription-only drug; or (3) a drug intended for human use by
12 hypodermic injection.

13 (aaa) "Secretary" means the executive secretary of the board.

14 (bbb) "Third party logistics provider" means an entity that: (1)
15 Provides or coordinates warehousing, distribution or other services on
16 behalf of a manufacturer, but does not take title to the prescription drug or
17 have general responsibility to direct the prescription drug's sale or
18 disposition; (2) is registered as a wholesale distributor under the pharmacy
19 act of the state of Kansas; and (3) to be considered part of the normal
20 distribution channel, must also be an authorized distributor of record.

21 (ccc) "Unprofessional conduct" means:

- 22 (1) Fraud in securing a registration or permit;
- 23 (2) intentional adulteration or mislabeling of any drug, medicine,
24 chemical or poison;
- 25 (3) causing any drug, medicine, chemical or poison to be adulterated
26 or mislabeled, knowing the same to be adulterated or mislabeled;
- 27 (4) intentionally falsifying or altering records or prescriptions;
- 28 (5) unlawful possession of drugs and unlawful diversion of drugs to
29 others;
- 30 (6) willful betrayal of confidential information under K.S.A. 65-1654,
31 and amendments thereto;
- 32 (7) conduct likely to deceive, defraud or harm the public;
- 33 (8) making a false or misleading statement regarding the licensee's
34 professional practice or the efficacy or value of a drug;
- 35 (9) commission of any act of sexual abuse, misconduct or
36 exploitation related to the licensee's professional practice; or
- 37 (10) performing unnecessary tests, examinations or services which
38 have no legitimate pharmaceutical purpose.

39 (ddd) "Vaccination protocol" means a written protocol, agreed to by a
40 pharmacist and a person licensed to practice medicine and surgery by the
41 state board of healing arts, which establishes procedures and
42 recordkeeping and reporting requirements for administering a vaccine by
43 the pharmacist for a period of time specified therein, not to exceed two

1 years.

2 (eee) "Valid prescription order" means a prescription that is issued for
3 a legitimate medical purpose by an individual prescriber licensed by law to
4 administer and prescribe drugs and acting in the usual course of such
5 prescriber's professional practice. A prescription issued solely on the basis
6 of an internet-based questionnaire or consultation without an appropriate
7 prescriber-patient relationship is not a valid prescription order.

8 (fff) "Veterinary medical teaching hospital pharmacy" means any
9 location where prescription-only drugs are stored as part of an accredited
10 college of veterinary medicine and from which prescription-only drugs are
11 distributed for use in treatment of or administration to a nonhuman.

12 (ggg) "Wholesale distributor" means any person engaged in
13 wholesale distribution of prescription drugs or devices in or into the state,
14 including, but not limited to, manufacturers, repackagers, own-label
15 distributors, private-label distributors, jobbers, brokers, warehouses,
16 including manufacturers' and distributors' warehouses, co-licensees,
17 exclusive distributors, third party logistics providers, chain pharmacy
18 warehouses that conduct wholesale distributions, and wholesale drug
19 warehouses, independent wholesale drug traders and retail pharmacies that
20 conduct wholesale distributions. Wholesale distributor shall not include
21 persons engaged in the sale of durable medical equipment to consumers or
22 patients.

23 (hhh) "Wholesale distribution" means the distribution of prescription
24 drugs or devices by wholesale distributors to persons other than consumers
25 or patients, and includes the transfer of prescription drugs by a pharmacy
26 to another pharmacy if the total number of units of transferred drugs
27 during a twelve-month period does not exceed 5% of the total number of
28 all units dispensed by the pharmacy during the immediately preceding
29 twelve-month period. Wholesale distribution does not include:

30 (1) The sale, purchase or trade of a prescription drug or device, an
31 offer to sell, purchase or trade a prescription drug or device or the
32 dispensing of a prescription drug or device pursuant to a prescription;

33 (2) the sale, purchase or trade of a prescription drug or device or an
34 offer to sell, purchase or trade a prescription drug or device for emergency
35 medical reasons;

36 (3) intracompany transactions, as defined in this section, unless in
37 violation of own use provisions;

38 (4) the sale, purchase or trade of a prescription drug or device or an
39 offer to sell, purchase or trade a prescription drug or device among
40 hospitals, chain pharmacy warehouses, pharmacies or other health care
41 entities that are under common control;

42 (5) the sale, purchase or trade of a prescription drug or device or the
43 offer to sell, purchase or trade a prescription drug or device by a charitable

1 organization described in 503(c)(3) of the internal revenue code of 1954 to
2 a nonprofit affiliate of the organization to the extent otherwise permitted
3 by law;

4 (6) the purchase or other acquisition by a hospital or other similar
5 health care entity that is a member of a group purchasing organization of a
6 prescription drug or device for its own use from the group purchasing
7 organization or from other hospitals or similar health care entities that are
8 members of these organizations;

9 (7) the transfer of prescription drugs or devices between pharmacies
10 pursuant to a centralized prescription processing agreement;

11 (8) the sale, purchase or trade of blood and blood components
12 intended for transfusion;

13 (9) the return of recalled, expired, damaged or otherwise non-salable
14 prescription drugs, when conducted by a hospital, health care entity,
15 pharmacy, chain pharmacy warehouse or charitable institution in
16 accordance with the board's rules and regulations;

17 (10) the sale, transfer, merger or consolidation of all or part of the
18 business of a retail pharmacy or pharmacies from or with another retail
19 pharmacy or pharmacies, whether accomplished as a purchase and sale of
20 stock or business assets, in accordance with the board's rules and
21 regulations;

22 (11) the distribution of drug samples by manufacturers' and
23 authorized distributors' representatives;

24 (12) the sale of minimal quantities of drugs by retail pharmacies to
25 licensed practitioners for office use; or

26 (13) the sale or transfer from a retail pharmacy or chain pharmacy
27 warehouse of expired, damaged, returned or recalled prescription drugs to
28 the original manufacturer, originating wholesale distributor or to a third
29 party returns processor in accordance with the board's rules and
30 regulations.

31 Sec. 5. K.S.A. 2013 Supp. 65-2802 is hereby amended to read as
32 follows: 65-2802. For the purpose of this act the following definitions
33 shall apply:

34 (a) The healing arts include any system, treatment, operation,
35 diagnosis, prescription; or practice for the ascertainment, cure, relief,
36 palliation, adjustment; or correction of any human disease, ailment,
37 deformity,—~~or~~ injury, *alteration or enhancement of a condition or*
38 *appearance* and includes specifically, but not by way of limitation, the
39 practice of medicine and surgery; the practice of osteopathic medicine and
40 surgery; and the practice of chiropractic.

41 (b) "Board" shall mean the state board of healing arts.

42 (c) "License," *unless otherwise specified*, shall mean a license to
43 practice the healing arts granted under this act.

1 (d) "Licensed" or "licensee," *unless otherwise specified*, shall mean a
2 person licensed under this act to practice medicine and surgery,
3 osteopathic medicine and surgery or chiropractic.

4 (e) "Healing arts school" shall mean an academic institution which
5 grants a doctor of chiropractic degree, doctor of medicine degree or doctor
6 of osteopathy degree.

7 (f) Wherever the masculine gender is used, it shall be construed to
8 include the feminine, and the singular number shall include the plural
9 when consistent with the intent of this act.

10 Sec. 6. K.S.A. 65-2803 is hereby amended to read as follows: 65-
11 2803. (a) *Unless otherwise specified by the board*, it shall be unlawful for
12 any person who ~~is not licensed under the Kansas healing arts act~~ *does not*
13 *have a license, registration, permit or certificate to engage in the practice*
14 *of any profession regulated by the board* or whose license, registration,
15 *permit or certificate to practice* has been revoked or suspended to engage
16 in the practice of ~~the healing arts as defined in the Kansas healing arts act~~
17 *any profession regulated by the board*.

18 ~~(b) This section shall not apply to any person licensed by the board~~
19 ~~whose license was expired or lapsed and reinstated within a six-month~~
20 ~~period pursuant to K.S.A. 65-2809 and amendments thereto.~~

21 ~~(e) (b)~~ This section shall not apply to any health care provider who in
22 good faith renders emergency care or assistance at the scene of an
23 emergency or accident as authorized by K.S.A. 65-2891, and amendments
24 thereto.

25 (c) *The commission of any act or practice declared to be a violation*
26 *of this section may render the violator liable to the state or county for the*
27 *payment of a civil penalty of up to \$1,000 per day for each day a person*
28 *engages in the unlawful practice of a profession regulated by the board. In*
29 *addition to such civil penalty, such violator may be assessed reasonable*
30 *costs of investigation and prosecution.*

31 (d) Violation of this section is ~~a class B misdemeanor~~ *non-person*
32 *felony*.

33 Sec. 7. K.S.A. 2013 Supp. 65-2809 is hereby amended to read as
34 follows: 65-2809. (a) The license shall expire on the date established by
35 rules and regulations of the board which may provide renewal throughout
36 the year on a continuing basis. In each case in which a license is renewed
37 for a period of time of more or less than 12 months, the board may prorate
38 the amount of the fee established under K.S.A. 65-2852, and amendments
39 thereto. The request for renewal shall be on a form provided by the board
40 and shall be accompanied by the prescribed fee, which shall be paid not
41 later than the expiration date of the license.

42 (b) *There is hereby created a designation of an active license. The*
43 *board is authorized to issue an active license to any licensee who make*

1 *written application for such license on a form provided by the board and*
2 *remits the fee for an active license established pursuant to K.S.A. 65-2852,*
3 *and amendments thereto. Except as otherwise provided in this section, The*
4 *board shall require every active licensee in the active practice of the*
5 *healing arts within the state to submit evidence of satisfactory completion*
6 *of a program of continuing education required by the board. The*
7 *requirements for continuing education for licensees of each branch of the*
8 *healing arts shall be established by rules and regulations adopted by the*
9 *board.*

10 (c) The board, prior to renewal of a license, shall require ~~the an~~
11 ~~active licensee, if in the active practice of the healing arts within the state,~~
12 to submit to the board evidence satisfactory to the board that the licensee is
13 maintaining a policy of professional liability insurance as required by
14 K.S.A. 40-3402, and amendments thereto, and has paid the premium
15 surcharges as required by K.S.A. 40-3404, and amendments thereto.

16 (d) At least 30 days before the expiration of a licensee's license, the
17 board shall notify the licensee of the expiration by mail addressed to the
18 licensee's last mailing address as noted upon the office records. If the
19 licensee fails to pay the renewal fee by the date of the expiration of the
20 license, the licensee shall be given a second notice that the licensee's
21 license has expired, that the license will be deemed canceled if not
22 renewed within 30 days following the date of expiration, that upon receipt
23 of the renewal fee and an additional fee established by rules and
24 regulations of the board not to exceed \$500 within the thirty-day period
25 the license will not be canceled and that, if both fees are not received
26 within the thirty-day period, the license shall be deemed canceled by
27 operation of law and without further proceedings.

28 (e) Any license canceled for failure to renew may be reinstated within
29 two years of cancellation upon recommendation of the board and upon
30 payment of the renewal fees then due and upon proof of compliance with
31 the continuing educational requirements established by the board by rules
32 and regulations. Any person who has not been in the active practice of the
33 branch of the healing arts for which reinstatement is sought or who has not
34 been engaged in a formal educational program during the two years
35 preceding the application for reinstatement may be required to complete
36 such additional testing, training or education as the board may deem
37 necessary to establish the licensee's present ability to practice with
38 reasonable skill and safety.

39 (f) There is hereby created a designation of exempt license. The board
40 is authorized to issue an exempt license to any licensee who makes written
41 application for such license on a form provided by the board and remits the
42 fee for an exempt license established pursuant to K.S.A. 65-2852, and
43 amendments thereto. The board may issue an exempt license to a person

1 who is not regularly engaged in the practice of the healing arts in Kansas
2 and who does not hold oneself out to the public as being professionally
3 engaged in such practice. An exempt license shall entitle the holder to all
4 privileges attendant to the branch of the healing arts for which such license
5 is issued. Each exempt license may be renewed subject to the provisions of
6 this section. Each exempt licensee shall be subject to all provisions of the
7 healing arts act, except as otherwise provided in this subsection (f). The
8 holder of an exempt license ~~shall not~~ may be required to submit evidence
9 of satisfactory completion of a program of continuing education required
10 by this section. *The requirements for continuing education for exempt*
11 *licensees of each branch of the healing arts shall be established by rules*
12 *and regulations adopted by the board.* Each exempt licensee may apply for
13 ~~a~~ an active license to regularly engage in the practice of the appropriate
14 branch of the healing arts upon filing a written application with the board.
15 The request shall be on a form provided by the board and shall be
16 accompanied by the license fee established pursuant to K.S.A. 65-2852,
17 and amendments thereto. For the licensee whose license has been exempt
18 for less than two years, the board shall adopt rules and regulations
19 establishing appropriate continuing education requirements for exempt
20 licensees to become licensed to regularly practice the healing arts within
21 Kansas. Any licensee whose license has been exempt for more than two
22 years and who has not been in the active practice of the healing arts or
23 engaged in a formal educational program since the license has been
24 exempt may be required to complete such additional testing, training or
25 education as the board may deem necessary to establish the licensee's
26 present ability to practice with reasonable skill and safety. Nothing in this
27 subsection (f) shall be construed to prohibit a person holding an exempt
28 license from serving as a coroner or as a paid employee of: (1) A local
29 health department as defined by K.S.A. 65-241, and amendments thereto;
30 or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and
31 amendments thereto.

32 (g) There is hereby created a designation of inactive license. The
33 board is authorized to issue an inactive license to any licensee who makes
34 written application for such license on a form provided by the board and
35 remits the fee for an inactive license established pursuant to K.S.A. 65-
36 2852, and amendments thereto. The board may issue an inactive license
37 only to a person who is not regularly engaged in the practice of the healing
38 arts in Kansas, who does not hold oneself out to the public as being
39 professionally engaged in such practice and who meets the definition of
40 inactive health care provider as defined in K.S.A. 40-3401, and
41 amendments thereto. An inactive license shall not entitle the holder to
42 practice the healing arts in this state. Each inactive license may be renewed
43 subject to the provisions of this section. Each inactive licensee shall be

1 subject to all provisions of the healing arts act, except as otherwise
2 provided in this subsection (g). The holder of an inactive license shall not
3 be required to submit evidence of satisfactory completion of a program of
4 continuing education required by K.S.A. 65-2809, and amendments
5 thereto. Each inactive licensee may apply for ~~a an active license to~~
6 ~~regularly engage in the practice of the appropriate branch of the healing~~
7 ~~arts~~ upon filing a written application with the board. The request shall be
8 on a form provided by the board and shall be accompanied by the license
9 fee established pursuant to K.S.A. 65-2852, and amendments thereto. For
10 those licensees whose license has been inactive for less than two years, the
11 board shall adopt rules and regulations establishing appropriate continuing
12 education requirements for inactive licensees to become licensed to
13 regularly practice the healing arts within Kansas. Any licensee whose
14 license has been inactive for more than two years and who has not been in
15 the active practice of the healing arts or engaged in a formal education
16 program since the licensee has been inactive may be required to complete
17 such additional testing, training or education as the board may deem
18 necessary to establish the licensee's present ability to practice with
19 reasonable skill and safety.

20 (h) (1) There is hereby created a designation of federally active
21 license. The board is authorized to issue a federally active license to any
22 licensee who makes written application for such license on a form
23 provided by the board and remits the same fee required for a license
24 established under K.S.A. 65-2852, and amendments thereto. The board
25 may issue a federally active license only to a person who meets all the
26 requirements for a license to practice the healing arts in Kansas and who
27 practices that branch of the healing arts solely in the course of employment
28 or active duty in the United States government or any of its departments,
29 bureaus or agencies. A person issued a federally active license may engage
30 in limited practice outside of the course of federal employment consistent
31 with the scope of practice of exempt licensees under subsection (f), except
32 that the scope of practice of a federally active licensee shall be limited to
33 the following: (A) Performing administrative functions, including peer
34 review, disability determinations, utilization review and expert opinions;
35 (B) providing direct patient care services gratuitously or providing
36 supervision, direction or consultation for no compensation except that
37 nothing in this subpart (1)(B) shall prohibit a person licensed to practice
38 the healing arts issued a federally active license from receiving payment
39 for subsistence allowances or actual and necessary expenses incurred in
40 providing such services; and (C) rendering professional services as a
41 charitable health care provider as defined in K.S.A. 75-6102, and
42 amendments thereto.

43 (2) The provisions of subsections (a), (b), (d) and (e) of this section

1 relating to continuing education, expiration and renewal of a license shall
2 be applicable to a federally active license issued under this subsection.

3 (3) A person who practices under a federally active license shall not
4 be deemed to be rendering professional service as a health care provider in
5 this state for purposes of K.S.A. 40-3402, and amendments thereto.

6 *(j) There is hereby created the designation of reentry license. The*
7 *board is authorized to issue a reentry license to any licensee who makes*
8 *written application for such license on a form provided by the board and*
9 *remits the fee for a reentry license. The board may issue a reentry license*
10 *with requirements as the board may deem necessary to establish the*
11 *licensee's present ability to practice with reasonable skill and safety to a*
12 *person who has not regularly engaged in the practice of the healing arts*
13 *for at least two years, but who meets all the qualifications for licensure.*
14 *The requirements for issuance, renewal and scope of practice for a reentry*
15 *license shall be established by rules and regulations adopted by the board.*

16 Sec. 8. K.S.A. 65-2812 is hereby amended to read as follows: 65-
17 2812. For the purpose of administering the provisions of this act, the
18 governor shall appoint a state board of healing arts consisting of 15
19 members. At least 30 days before the expiration of any term, other than
20 that of the member appointed from the general public ~~and the licensed~~
21 ~~podiatrist member of the board~~, the professional society or association
22 shall submit to the governor a list of three or more names of persons of
23 recognized ability who have the qualifications prescribed for board
24 members for each member of the board who will be appointed from its
25 branch of the healing arts. The governor shall consider the list of persons
26 in making the appointment to the board. In case of a vacancy on the
27 board, other than that of the member appointed from the general public
28 and the licensed podiatrist member of the board, prior to the expiration of
29 a term of office, the governor shall appoint a qualified successor to fill the
30 unexpired term, and in making the appointment the governor shall give
31 consideration to the list of persons last submitted to the governor.

32 Sec. 9. K.S.A. 65-2833 is hereby amended to read as follows: 65-
33 2833. The board, without examination, may issue a license to a person
34 who has been in the active practice of a branch of the healing arts in some
35 other state, territory, the District of Columbia or other country upon
36 certificate of the proper licensing authority of that state, territory, District
37 of Columbia or other country certifying that the applicant is duly licensed,
38 that the applicant's license has never been limited, suspended or revoked,
39 that the licensee has never been censured or had other disciplinary action
40 taken and that, so far as the records of such authority are concerned, the
41 applicant is entitled to its endorsement. The applicant shall also present
42 proof satisfactory to the board:

43 (a) That the state, territory, District of Columbia or country in which

1 the applicant last practiced has and maintains standards at least equal to
2 those maintained by Kansas.

3 (b) That the applicant's original license was based upon an
4 examination at least equal in quality to the examination required in this
5 state and that the passing grade required to obtain such original license
6 was comparable to that required in this state.

7 (c) Of the date of the applicant's original and any and all endorsed
8 licenses and the date and place from which any license was attained.

9 (d) That the applicant has been actively engaged in practice under
10 such license or licenses since issued, ~~and if not, fix the time when and~~
11 ~~reason why the applicant was out of practice.~~ *The board may adopt rules*
12 *and regulations establishing qualitative and quantitative practice*
13 *activities which qualify as active practice.*

14 (e) That the applicant has a reasonable ability to communicate in
15 English.

16 An applicant for *a license by endorsement—registration* shall not be
17 licensed unless, *as determined by the board,* the applicant's individual
18 qualifications ~~meet~~ *are substantially equivalent to* the Kansas legal
19 requirements.

20 In lieu of any other requirement prescribed by law for satisfactory
21 passage of any examination in any branch of the healing arts the board
22 may accept evidence satisfactory to it that the applicant or licensee has
23 satisfactorily passed an equivalent examination given by a national board
24 of examiners in chiropractic, osteopathic medicine and surgery or
25 medicine and surgery as now required by Kansas statutes for endorsement
26 from other states.

27 Sec. 10. K.S.A. 2013 Supp. 65-2836 is hereby amended to read as
28 follows: 65-2836. A licensee's license may be revoked, suspended or
29 limited, or the licensee may be publicly or privately censured or placed
30 under probationary conditions, or an application for a license or for
31 reinstatement of a license may be denied upon a finding of the existence of
32 any of the following grounds:

33 (a) The licensee has committed fraud or misrepresentation in
34 applying for or securing an original, renewal or reinstated license.

35 (b) The licensee has committed an act of unprofessional or
36 dishonorable conduct or professional incompetency, except that the board
37 may take appropriate disciplinary action or enter into a non-disciplinary
38 resolution when a licensee has engaged in any conduct or professional
39 practice on a single occasion that, if continued, would reasonably be
40 expected to constitute an inability to practice the healing arts with
41 reasonable skill and safety to patients or unprofessional conduct as defined
42 in K.S.A. 65-2837, and amendments thereto.

43 (c) The licensee has been convicted of a felony or class A

1 misdemeanor, *or substantially similar offense in another jurisdiction*,
2 whether or not related to the practice of the healing arts. *The licensee has*
3 *been convicted in a special or general court-martial, whether or not*
4 *related to the practice of the healing arts.* The board shall revoke a
5 licensee's license following conviction of a felony *or substantially similar*
6 *offense in another jurisdiction, or following conviction in a general court-*
7 *martial* occurring after July 1, 2000, unless a $\frac{2}{3}$ majority of the board
8 members present and voting determine by clear and convincing evidence
9 that such licensee will not pose a threat to the public in such person's
10 capacity as a licensee and that such person has been sufficiently
11 rehabilitated to warrant the public trust. In the case of a person who has
12 been convicted of a felony *or convicted in a general court-martial* and
13 who applies for an original license or to reinstate a canceled license, the
14 application for a license shall be denied unless a $\frac{2}{3}$ majority of the board
15 members present and voting on such application determine by clear and
16 convincing evidence that such person will not pose a threat to the public in
17 such person's capacity as a licensee and that such person has been
18 sufficiently rehabilitated to warrant the public trust.

19 (d) The licensee has used fraudulent or false advertisements.

20 (e) The licensee is addicted to or has distributed intoxicating liquors
21 or drugs for any other than lawful purposes.

22 (f) The licensee has willfully or repeatedly violated this act, the
23 pharmacy act of the state of Kansas or the uniform controlled substances
24 act, or any rules and regulations adopted pursuant thereto, or any rules and
25 regulations of the secretary of health and environment which are relevant
26 to the practice of the healing arts.

27 (g) The licensee has unlawfully invaded the field of practice of any
28 branch of the healing arts in which the licensee is not licensed to practice.

29 (h) The licensee has engaged in the practice of the healing arts under
30 a false or assumed name, or the impersonation of another practitioner. The
31 provisions of this subsection relating to an assumed name shall not apply
32 to licensees practicing under a professional corporation or other legal
33 entity duly authorized to provide such professional services in the state of
34 Kansas.

35 (i) ~~The licensee has the inability~~ *licensee's ability* to practice the
36 healing arts with reasonable skill and safety to patients *is impaired* by
37 reason of physical or mental illness, or condition or use of alcohol, drugs
38 or controlled substances. ~~In determining whether or not such inability~~
39 ~~exists, the board, upon reasonable suspicion of such inability, shall have~~
40 ~~authority to compel a licensee to submit to mental or physical examination~~
41 ~~or drug screen, or any combination thereof, by such persons as the board~~
42 ~~may designate either in the course of an investigation or a disciplinary~~
43 ~~proceeding. To determine whether reasonable suspicion of such inability~~

1 exists, the investigative information shall be presented to the board as a
2 whole, to a review committee of professional peers of the licensee
3 established pursuant to K.S.A. 65-2840c, and amendments thereto, or to a
4 committee consisting of the officers of the board elected pursuant to
5 K.S.A. 65-2818, and amendments thereto, and the executive director
6 appointed pursuant to K.S.A. 65-2878, and amendments thereto, or to a
7 presiding officer authorized pursuant to K.S.A. 77-514, and amendments
8 thereto. The determination shall be made by a majority vote of the entity
9 which reviewed the investigative information. Information submitted to
10 the board as a whole or a review committee of peers or a committee of the
11 officers and executive director of the board and all reports, findings and
12 other records *All information, reports, findings and other records relating*
13 *to impairment* shall be confidential and not subject to discovery by or
14 release to any person or entity *outside of a board proceeding*. The licensee
15 shall submit to the board a release of information authorizing the board to
16 obtain a report of such examination or drug screen, or both. A person
17 affected by this subsection shall be offered, at reasonable intervals, an
18 opportunity to demonstrate that such person can resume the competent
19 practice of the healing arts with reasonable skill and safety to patients. For
20 the purpose of this subsection, every person licensed to practice the
21 healing arts and who shall accept the privilege to practice the healing arts
22 in this state by so practicing or by the making and filing of a renewal to
23 practice the healing arts in this state shall be deemed to have consented to
24 submit to a mental or physical examination or a drug screen, or any
25 combination thereof, when directed in writing by the board and further to
26 have waived all objections to the admissibility of the testimony, drug
27 screen or examination report of the person conducting such examination or
28 drug screen, or both, at any proceeding or hearing before the board on the
29 ground that such testimony or examination or drug screen report
30 constitutes a privileged communication. In any proceeding by the board
31 pursuant to the provisions of this subsection, the record of such board
32 proceedings involving the mental and physical examination or drug screen,
33 or any combination thereof, shall not be used in any other administrative
34 or judicial proceeding.

35 (j) The licensee has had a license to practice the healing arts revoked,
36 suspended or limited, has been censured or has had other disciplinary
37 action taken, or an application for a license denied, by the proper licensing
38 authority of another state, territory, District of Columbia, or other country,
39 a certified copy of the record of the action of the other jurisdiction being
40 conclusive evidence thereof.

41 (k) The licensee has violated any lawful rule and regulation
42 promulgated by the board or violated any lawful order or directive of the
43 board previously entered by the board.

1 (l) The licensee has failed to report or reveal the knowledge required
2 to be reported or revealed under K.S.A. 65-28,122, and amendments
3 thereto.

4 (m) The licensee, if licensed to practice medicine and surgery, has
5 failed to inform in writing a patient suffering from any form of
6 abnormality of the breast tissue for which surgery is a recommended form
7 of treatment, of alternative methods of treatment recognized by licensees
8 of the same profession in the same or similar communities as being
9 acceptable under like conditions and circumstances.

10 (n) The licensee has cheated on or attempted to subvert the validity of
11 the examination for a license.

12 (o) The licensee has been found to be mentally ill, disabled, not guilty
13 by reason of insanity, not guilty because the licensee suffers from a mental
14 disease or defect or incompetent to stand trial by a court of competent
15 jurisdiction.

16 (p) The licensee has prescribed, sold, administered, distributed or
17 given a controlled substance to any person for other than medically
18 accepted or lawful purposes.

19 (q) The licensee has violated a federal law or regulation relating to
20 controlled substances.

21 (r) The licensee has failed to furnish the board, or its investigators or
22 representatives, any information legally requested by the board.

23 (s) Sanctions or disciplinary actions have been taken against the
24 licensee by a peer review committee, health care facility, a governmental
25 agency or department or a professional association or society for acts or
26 conduct similar to acts or conduct which would constitute grounds for
27 disciplinary action under this section.

28 (t) The licensee has failed to report to the board any adverse action
29 taken against the licensee by another state or licensing jurisdiction, a peer
30 review body, a health care facility, a professional association or society, a
31 governmental agency, by a law enforcement agency or a court for acts or
32 conduct similar to acts or conduct which would constitute grounds for
33 disciplinary action under this section.

34 (u) The licensee has surrendered a license or authorization to practice
35 the healing arts in another state or jurisdiction, has surrendered the
36 authority to utilize controlled substances issued by any state or federal
37 agency, has agreed to a limitation to or restriction of privileges at any
38 medical care facility or has surrendered the licensee's membership on any
39 professional staff or in any professional association or society while under
40 investigation for acts or conduct similar to acts or conduct which would
41 constitute grounds for disciplinary action under this section.

42 (v) The licensee has failed to report to the board surrender of the
43 licensee's license or authorization to practice the healing arts in another

1 state or jurisdiction or surrender of the licensee's membership on any
2 professional staff or in any professional association or society while under
3 investigation for acts or conduct similar to acts or conduct which would
4 constitute grounds for disciplinary action under this section.

5 (w) The licensee has an adverse judgment, award or settlement
6 against the licensee resulting from a medical liability claim related to acts
7 or conduct similar to acts or conduct which would constitute grounds for
8 disciplinary action under this section.

9 (x) The licensee has failed to report to the board any adverse
10 judgment, settlement or award against the licensee resulting from a
11 medical malpractice liability claim related to acts or conduct similar to acts
12 or conduct which would constitute grounds for disciplinary action under
13 this section.

14 (y) The licensee has failed to maintain a policy of professional
15 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and
16 amendments thereto.

17 (z) The licensee has failed to pay the premium surcharges as required
18 by K.S.A. 40-3404, and amendments thereto.

19 (aa) The licensee has knowingly submitted any misleading, deceptive,
20 untrue or fraudulent representation on a claim form, bill or statement.

21 (bb) The licensee as the ~~responsible~~ *supervising* physician for a
22 physician assistant has failed to adequately direct and supervise the
23 physician assistant in accordance with the physician assistant licensure act
24 or rules and regulations adopted under such act.

25 (cc) The licensee has assisted suicide in violation of K.S.A. 21-3406,
26 prior to its repeal, or K.S.A. 2013 Supp. 21-5407, and amendments
27 thereto, as established by any of the following:

28 (A) A copy of the record of criminal conviction or plea of guilty for a
29 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2013
30 Supp. 21-5407, and amendments thereto.

31 (B) A copy of the record of a judgment of contempt of court for
32 violating an injunction issued under K.S.A. 60-4404, and amendments
33 thereto.

34 (C) A copy of the record of a judgment assessing damages under
35 K.S.A. 60-4405, and amendments thereto.

36 (dd) *The licensee has given a worthless check or stopped payment on*
37 *a debit or credit card for fees or moneys legally due to the board.*

38 (ee) *The licensee has knowingly or negligently abandoned medical*
39 *records.*

40 Sec. 11. K.S.A. 2013 Supp. 65-2837 is hereby amended to read as
41 follows: 65-2837. As used in K.S.A. 65-2836, and amendments thereto,
42 and in this section:

43 (a) "Professional incompetency" means:

- 1 (1) One or more instances involving failure to adhere to the
2 applicable standard of care to a degree which constitutes gross negligence,
3 as determined by the board.
- 4 (2) Repeated instances involving failure to adhere to the applicable
5 standard of care to a degree which constitutes ordinary negligence, as
6 determined by the board.
- 7 (3) A pattern of practice or other behavior which demonstrates a
8 manifest incapacity or incompetence to practice the healing arts.
- 9 (b) "Unprofessional conduct" means:
 - 10 (1) Solicitation of professional patronage through the use of
11 fraudulent or false advertisements, or profiting by the acts of those
12 representing themselves to be agents of the licensee.
 - 13 (2) Representing to a patient that a manifestly incurable disease,
14 condition or injury can be permanently cured.
 - 15 (3) Assisting in the care or treatment of a patient without the consent
16 of the patient, the attending physician or the patient's legal representatives.
 - 17 (4) The use of any letters, words, or terms, as an affix, on stationery,
18 in advertisements, or otherwise indicating that such person is entitled to
19 practice a branch of the healing arts for which such person is not licensed.
 - 20 (5) Performing, procuring or aiding and abetting in the performance
21 or procurement of a criminal abortion.
 - 22 (6) Willful betrayal of confidential information.
 - 23 (7) Advertising professional superiority or the performance of
24 professional services in a superior manner.
 - 25 (8) Advertising to guarantee any professional service or to perform
26 any operation painlessly.
 - 27 (9) Participating in any action as a staff member of a medical care
28 facility which is designed to exclude or which results in the exclusion of
29 any person licensed to practice medicine and surgery from the medical
30 staff of a nonprofit medical care facility licensed in this state because of
31 the branch of the healing arts practiced by such person or without just
32 cause.
 - 33 (10) Failure to effectuate the declaration of a qualified patient as
34 provided in subsection (a) of K.S.A. 65-28,107, and amendments thereto.
 - 35 (11) Prescribing, ordering, dispensing, administering, selling,
36 supplying or giving any amphetamines or sympathomimetic amines,
37 except as authorized by K.S.A. 65-2837a, and amendments thereto.
 - 38 (12) Conduct likely to deceive, defraud or harm the public.
 - 39 (13) Making a false or misleading statement regarding the licensee's
40 skill or the efficacy or value of the drug, treatment or remedy prescribed
41 by the licensee or at the licensee's direction in the treatment of any disease
42 or other condition of the body or mind.
 - 43 (14) Aiding or abetting the practice of the healing arts by an

1 unlicensed, incompetent or impaired person.

2 (15) Allowing another person or organization to use the licensee's
3 license to practice the healing arts.

4 (16) Commission of any act of sexual abuse, misconduct or other
5 improper sexual contact, which exploits the licensee-patient relationship,
6 with a patient or a person responsible for health care decisions concerning
7 such patient.

8 (17) The use of any false, fraudulent or deceptive statement in any
9 document connected with the practice of the healing arts including the
10 intentional falsifying or fraudulent altering of a patient or medical care
11 facility record.

12 (18) Obtaining any fee by fraud, deceit or misrepresentation.

13 (19) Directly or indirectly giving or receiving any fee, commission,
14 rebate or other compensation for professional services not actually and
15 personally rendered, other than through the legal functioning of lawful
16 professional partnerships, corporations, *limited liability company* or
17 associations.

18 (20) Failure to transfer patient records to another licensee when
19 requested to do so by the subject patient or by such patient's legally
20 designated representative.

21 (21) Performing unnecessary tests, examinations or services which
22 have no legitimate medical purpose.

23 (22) Charging an excessive fee for services rendered.

24 (23) Prescribing, dispensing, administering or distributing a
25 prescription drug or substance, including a controlled substance, in an
26 improper or inappropriate manner, or for other than a valid medical
27 purpose, or not in the course of the licensee's professional practice.

28 (24) Repeated failure to practice healing arts with that level of care,
29 skill and treatment which is recognized by a reasonably prudent similar
30 practitioner as being acceptable under similar conditions and
31 circumstances.

32 (25) Failure to keep written medical records which accurately
33 describe the services rendered to the patient, including patient histories,
34 pertinent findings, examination results and test results.

35 (26) Delegating professional responsibilities to a person when the
36 licensee knows or has reason to know that such person is not qualified by
37 training, experience or licensure to perform them.

38 (27) Using experimental forms of therapy without proper informed
39 patient consent, without conforming to generally accepted criteria or
40 standard protocols, without keeping detailed legible records or without
41 having periodic analysis of the study and results reviewed by a committee
42 or peers.

43 (28) Prescribing, dispensing, administering or distributing an anabolic

1 steroid or human growth hormone for other than a valid medical purpose.
2 Bodybuilding, muscle enhancement or increasing muscle bulk or strength
3 through the use of an anabolic steroid or human growth hormone by a
4 person who is in good health is not a valid medical purpose.

5 (29) Referring a patient to a health care entity for services if the
6 licensee has a significant investment interest in the health care entity,
7 unless the licensee informs the patient in writing of such significant
8 investment interest and that the patient may obtain such services
9 elsewhere.

10 (30) Failing to properly supervise, direct or delegate acts which
11 constitute the healing arts to persons who perform professional services
12 pursuant to such licensee's direction, supervision, order, referral,
13 delegation or practice protocols.

14 (31) Violating K.S.A. 65-6703, and amendments thereto.

15 (32) Charging, billing or otherwise soliciting payment from any
16 patient, patient's representative or insurer for anatomic pathology services,
17 if such services are not personally rendered by the licensee or under such
18 licensee's direct supervision. As used in this subsection, "anatomic
19 pathology services" means the gross or microscopic examination of
20 histologic processing of human organ tissue or the examination of human
21 cells from fluids, aspirates, washings, brushings or smears, including blood
22 banking services, and subcellular or molecular pathology services,
23 performed by or under the supervision of a person licensed to practice
24 medicine and surgery or a clinical laboratory. Nothing in this subsection
25 shall be construed to prohibit billing for anatomic pathology services by a
26 hospital, or by a clinical laboratory when samples are transferred between
27 clinical laboratories for the provision of anatomic pathology services.

28 (33) Engaging in conduct which violates patient trust and exploits the
29 licensee-patient relationship for personal gain.

30 (34) *Obstructing a board investigation including, but not limited to,*
31 *engaging in one or more of the following acts:*

32 (A) *Falsifying or concealing a material fact;*

33 (B) *knowingly making or causing to be made any false or misleading*
34 *statement or writing; or*

35 (C) *other acts or conduct likely to deceive or defraud the board.*

36 (c) "False advertisement" means any advertisement which is false,
37 misleading or deceptive in a material respect. In determining whether any
38 advertisement is misleading, there shall be taken into account not only
39 representations made or suggested by statement, word, design, device,
40 sound or any combination thereof, but also the extent to which the
41 advertisement fails to reveal facts material in the light of such
42 representations made.

43 (d) "Advertisement" means all representations disseminated in any

1 manner or by any means, for the purpose of inducing, or which are likely
2 to induce, directly or indirectly, the purchase of professional services.

3 (e) "Licensee" for purposes of this section and K.S.A. 65-2836, and
4 amendments thereto, shall mean all persons issued a license, permit or
5 special permit pursuant to article 28 of chapter 65 of the Kansas Statutes
6 Annotated, *and amendments thereto*.

7 (f) "License" for purposes of this section and K.S.A. 65-2836, and
8 amendments thereto, shall mean any license, permit or special permit
9 granted under article 28 of chapter 65 of the Kansas Statutes Annotated,
10 *and amendments thereto*.

11 (g) "Health care entity" means any corporation, firm, partnership or
12 other business entity which provides services for diagnosis or treatment of
13 human health conditions and which is owned separately from a referring
14 licensee's principle practice.

15 (h) "Significant investment interest" means ownership of at least 10%
16 of the value of the firm, partnership or other business entity which owns or
17 leases the health care entity, or ownership of at least 10% of the shares of
18 stock of the corporation which owns or leases the health care entity.

19 Sec. 12. K.S.A. 2013 Supp. 65-2838 is hereby amended to read as
20 follows: 65-2838. (a) The board shall have jurisdiction of proceedings to
21 take disciplinary action authorized by ~~K.S.A. 65-2836, and amendments~~
22 ~~thereto, against any licensee practicing under this the applicable practice~~
23 ~~act. Unless otherwise specified, any such action shall be taken in~~
24 accordance with the provisions of the Kansas administrative procedure act.

25 (b) Either before or after formal charges have been filed, the board
26 and the licensee, *registrant, permit holder or certificate holder* may enter
27 into a stipulation which shall be binding upon the board and the ~~licensee~~
28 *person* entering into such stipulation, and the board may enter its findings
29 of fact and enforcement order based upon such stipulation without the
30 necessity of filing any formal charges or holding hearings in the case. An
31 enforcement order based upon a stipulation may order any disciplinary
32 action authorized by ~~K.S.A. 65-2836, and amendments thereto, the~~
33 *applicable practice act* against the ~~licensee person~~ entering into such
34 stipulation.

35 (c) The board may temporarily suspend or temporarily limit the
36 license, *registration, permit or certificate* of any licensee, *registrant,*
37 *permit holder or certificate holder* in accordance with the emergency
38 adjudicative proceedings under the Kansas administrative procedure act if
39 the board determines that there is cause to believe that grounds exist ~~under~~
40 ~~K.S.A. 65-2836, and amendments thereto, for disciplinary action~~
41 ~~authorized by K.S.A. 65-2836, and amendments thereto, for disciplinary~~
42 *action authorized by the applicable practice act* against the ~~licensee~~
43 *person* and that the ~~licensee's person's~~ continuation in practice would

1 constitute an imminent danger to the public health and safety.

2 (d) The board shall adopt guidelines for the use of controlled
3 substances for the treatment of pain.

4 (e) Upon request of another regulatory or enforcement agency, or a
5 licensee, the board may render a written advisory opinion indicating
6 whether the licensee has prescribed, dispensed, administered or distributed
7 controlled substances in accordance with the treatment of pain guidelines
8 adopted by the board.

9 Sec. 13. K.S.A. 2013 Supp. 65-2838a is hereby amended to read as
10 follows: 65-2838a. (a) The board; *or a committee of the board* ~~or a peer~~
11 ~~review committee established pursuant to K.S.A. 65-2840e, and~~
12 ~~amendments thereto~~, as a non-disciplinary resolution, may enter into a
13 written agreement with a licensee, *registrant, permit holder or certificate*
14 *holder* for a professional development plan, make written
15 recommendations to ~~a licensee~~ *the person* or issue a written letter of
16 concern to ~~a licensee~~ *the person* if the board; *or committee of the board* ~~or~~
17 ~~peer review committee~~ determines that the ~~licensee~~ *person*:

18 (1) Seeks to establish continued competency for renewal ~~of licensure~~
19 ~~other than through continued education requirements established pursuant~~
20 ~~to K.S.A. 65-2809, and amendments thereto~~ *the applicable practice act*;

21 (2) has been absent from clinical practice for an extended period of
22 time and seeks to resume clinical practice;

23 (3) has failed to adhere to the applicable standard of care but not to a
24 degree constituting professional incompetence, as defined by ~~K.S.A. 65-~~
25 ~~2837, and amendments thereto~~ *the applicable practice act*; or

26 (4) has engaged in an act or practice that, if continued, would
27 reasonably be expected to result in future violations of the ~~Kansas healing~~
28 ~~arts~~ *the applicable practice act*.

29 (b) Notwithstanding any other provision of law, a meeting of the
30 board; *or a committee of the board* ~~or a peer review committee established~~
31 ~~pursuant to K.S.A. 65-2840e, and amendments thereto~~, for the purpose of
32 discussing or adopting a non-disciplinary resolution authorized by this
33 section shall not be subject to the Kansas administrative procedures act,
34 K.S.A. 77-501 et seq., and amendments thereto, and shall not be subject to
35 the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and
36 amendments thereto. A non-disciplinary resolution authorized by this
37 section shall not be deemed disciplinary action or other order or
38 adjudication. No failure to adhere to the applicable standard of care or
39 violation of the Kansas healing arts act may be implied by the adoption of
40 a non-disciplinary resolution.

41 (c) A non-disciplinary resolution authorized by this section shall be
42 confidential in the manner provided by K.S.A. 65-2898a, and amendments
43 thereto, and shall not be admissible in any civil, criminal or administrative

1 action, except that such resolution shall be admissible in any disciplinary
2 proceeding by the board.

3 (d) This section shall be part of and supplemental to the Kansas
4 healing arts act.

5 Sec. 14. K.S.A. 65-2839a is hereby amended to read as follows: 65-
6 2839a. (a) In connection with any investigation by the board, the board or
7 its duly authorized agents or employees shall at all reasonable times have
8 access to, for the purpose of examination, and the right to copy any
9 document, report, record or other physical evidence of any person being
10 investigated, or any document, report, record or other evidence maintained
11 by and in possession of any clinic, office of a practitioner ~~of the healing~~
12 ~~arts of any profession regulated by the board,~~ laboratory, pharmacy,
13 medical care facility or other public or private agency if such document,
14 report, record or evidence relates to ~~medical professional~~ competence,
15 unprofessional conduct or the mental or physical ability of ~~a licensee a~~
16 ~~person to safely to practice the healing arts any profession regulated by the~~
17 ~~board.~~

18 (b) For the purpose of all investigations and proceedings conducted
19 by the board:

20 (1) The board may issue subpoenas compelling the attendance and
21 testimony of witnesses or the production for examination or copying of
22 documents or any other physical evidence if such evidence relates to
23 medical competence, unprofessional conduct or the mental or physical
24 ability of a licensee, *registrant, permit holder or certificate holder to*
25 ~~safely to practice the healing arts.~~ Within five days after the service of the
26 subpoena on any person requiring the production of any evidence in the
27 person's possession or under the person's control, such person may petition
28 the board to revoke, limit or modify the subpoena. The board shall revoke,
29 limit or modify such subpoena if in its opinion the evidence required does
30 not relate to practices which may be grounds for disciplinary action, is not
31 relevant to the charge which is the subject matter of the proceeding or
32 investigation, or does not describe with sufficient particularity the physical
33 evidence which is required to be produced. Any member of the board, or
34 any agent designated by the board, may administer oaths or affirmations,
35 examine witnesses and receive such evidence. *The board shall have the*
36 *authority to compel the production of evidence upon noncompliance with*
37 *an investigative subpoena, if in the opinion of the board or the board's*
38 *designee, the evidence demanded relates to a practice which may be*
39 *grounds for disciplinary action, is relevant to the charge which is the*
40 *subject matter of the investigation and describes with sufficient*
41 *particularity the physical evidence required to be produced.*

42 (2) Any person appearing before the board shall have the right to be
43 represented by counsel.

1 (3) The district court, upon application by the board or *after*
2 *exhaustion of available administrative remedies* by the person subpoenaed,
3 shall have jurisdiction to issue an order:

4 (A) Requiring such person to appear before the board or the boards
5 duly authorized agent to produce evidence relating to the matter under
6 investigation; or

7 (B) revoking, limiting or modifying the subpoena if in the court's
8 opinion the evidence demanded does not relate to practices which may be
9 grounds for disciplinary action, is not relevant to the charge which is the
10 subject matter of the hearing or investigation or does not describe with
11 sufficient particularity the evidence which is required to be produced.

12 (c) The board may receive from the Kansas bureau of investigation or
13 other criminal justice agencies such criminal history record information
14 ~~(including arrest and nonconviction data)~~, criminal intelligence
15 information and information relating to criminal and background
16 investigations as necessary for the purpose of determining initial and
17 continuing qualifications of licensees, *permit holders*, ~~and~~ registrants *and*
18 *certificate holders* of, and applicants for, licensure and registration by the
19 board. Disclosure or use of any such information received by the board or
20 of any record containing such information, for any purpose other than that
21 provided by this subsection is a class A misdemeanor and shall constitute
22 grounds for removal from office, termination of employment or denial,
23 revocation or suspension of any license ~~or, permit,~~ registration *or*
24 *certificate* issued under this act. *Unless otherwise specified*, nothing in
25 this subsection shall be construed to make unlawful the disclosure of any
26 such information by the board in a hearing held pursuant to ~~this act~~ *the*
27 *practice act of any profession regulated by the board*.

28 (d) Patient records, including clinical records, medical reports,
29 laboratory statements and reports, files, films, other reports or oral
30 statements relating to diagnostic findings or treatment of patients,
31 information from which a patient or a patient's family might be identified,
32 peer review or risk management records or information received and
33 records kept by the board as a result of the investigation procedure
34 outlined in this section shall be confidential and shall not be disclosed.

35 (e) Nothing in this section or any other provision of law making
36 communications between a ~~physician~~ *licensee, registrant, permit holder or*
37 *certificate holder* and the ~~physician's~~ patient a privileged communication
38 shall apply to investigations or proceedings conducted pursuant to this
39 section. The board and its employees, agents and representatives shall keep
40 in confidence the names of any patients whose records are reviewed during
41 the course of investigations and proceedings pursuant to this section.

42 Sec. 15. K.S.A. 65-2840a is hereby amended to read as follows: 65-
43 2840a. The state board of healing arts shall appoint a disciplinary counsel,

1 who shall not otherwise be an attorney for the board, with the duties set
2 out in this act. The disciplinary counsel shall be an attorney admitted to
3 practice law in the state of Kansas. The disciplinary counsel shall have the
4 power and the duty to investigate or cause to be investigated all matters
5 involving professional incompetency, unprofessional conduct or any other
6 matter which may result in disciplinary action against a licensee,
7 *registrant, permit holder or certificate holder* pursuant to ~~K.S.A. 65-2836~~
8 ~~through 65-2844, and amendments thereto~~ *the applicable practice act*. In
9 the performance of these duties, the disciplinary counsel may apply to any
10 court having power to issue subpoenas for an order to require by subpoena
11 the attendance of any person or by subpoena duces tecum the production
12 of any records for the purpose of the production of any information
13 pertinent to an investigation. Subject to approval by the state board of
14 healing arts, the disciplinary counsel shall employ clerical and other staff
15 necessary to carry out the duties of the disciplinary counsel. The state
16 board of healing arts may adopt rules and regulations necessary to allow
17 the disciplinary counsel to properly perform the functions of such position
18 under this act.

19 Sec. 16. K.S.A. 65-2842 is hereby amended to read as follows: 65-
20 2842. (a) *Upon reasonable suspicion that a person's ability to practice*
21 *such person's profession with reasonable skill and safety to patients is*
22 *impaired by reason of physical or mental illness, or condition or use of*
23 *alcohol, drugs or controlled substances, the board shall have authority to*
24 *compel the person to submit to a mental or physical examination,*
25 *substance abuse evaluation or drug screen or any combination thereof, by*
26 *such persons as the board may designate either in the course of an*
27 *investigation or a disciplinary proceeding.*

28 (b) *To determine whether reasonable suspicion of impaired ability*
29 *exists, the investigative information shall be presented to the board as a*
30 *whole, or to a committee consisting of the officers of the board elected*
31 *pursuant to K.S.A. 65-2818, and amendments thereto, and the executive*
32 *director appointed pursuant to K.S.A. 65-2878, and amendments thereto,*
33 *or to a presiding officer authorized pursuant to K.S.A. 77-514, and*
34 *amendments thereto. The determination shall be made by a majority vote*
35 *of the entity which reviewed the investigative information. Information*
36 *submitted to the board as a whole or a committee of the officers and*
37 *executive director of the board or presiding officer and all reports,*
38 *findings and other records shall be confidential and not subject to*
39 *discovery by or release to any person or entity.*

40 (c) *The person shall submit to the board a release of information*
41 *authorizing the board to obtain a report of such examination or drug*
42 *screen, or both. Any person affected by this section shall be offered, at*
43 *reasonable intervals, an opportunity to demonstrate that such person can*

1 *resume the competent practice of such person's profession with reasonable*
2 *skill and safety to patients. For the purposes of this section, every person*
3 *who accepts the privilege to practice any profession regulated by the*
4 *board in this state by practicing or by the making and filing of a renewal*
5 *application in this state shall be deemed to have consented to submit to a*
6 *mental or physical examination, substance abuse evaluation or a drug*
7 *screen, or any combination thereof, when directed in writing by the board.*
8 *Further, such person shall be deemed to have waived all objections to the*
9 *admissibility of the testimony, drug screen or examination report of the*
10 *person conducting such examination or drug screen, or both, at any*
11 *proceeding or hearing before the board on the ground that such testimony*
12 *or examination or drug screen report constitutes a privileged*
13 *communication.*

14 *(d) In any proceeding by the board pursuant to the provisions of this*
15 *section, the records of any board proceedings involving the mental and*
16 *physical examination, substance abuse evaluation or drug screen, or any*
17 *combination thereof, shall be considered confidential and shall not be*
18 *used in any civil, criminal or administrative action, other than an*
19 *administrative or disciplinary proceeding by the board.*

20 *(e) Whenever the board directs, pursuant to subsection (i) of K.S.A.*
21 *65-2836 and amendments thereto, that a licensee, registrant, permit holder*
22 *or certificate holder submit to a mental or physical examination,*
23 *substance abuse evaluation or drug screen, or any combination thereof, the*
24 *time from the date of the board's directive until the submission to the board*
25 *of the report of the examination or drug screen, or both, shall not be*
26 *included in the computation of the time limit for hearing prescribed by the*
27 *Kansas administrative procedure act.*

28 Sec. 17. K.S.A. 2013 Supp. 65-2844 is hereby amended to read as
29 follows: 65-2844. A person whose license, *registration, permit or*
30 *certificate* has been revoked may apply for reinstatement ~~of the license~~
31 after the expiration of three years from the effective date of the revocation.
32 Application for reinstatement shall be on a form provided by the board and
33 shall be accompanied by a reinstatement of a revoked license, *registration,*
34 *permit or certificate* fee established by the board under ~~K.S.A. 65-2852,~~
35 ~~and amendments thereto~~ *the applicable practice act.* The burden of proof
36 by clear and convincing evidence shall be on the applicant to show
37 sufficient rehabilitation to justify reinstatement ~~of the license.~~ If the board
38 determines a license, *registration, permit or certificate* should not be
39 reinstated, the person shall not be eligible to reapply for reinstatement for
40 three years from the effective date of the denial. All proceedings conducted
41 on an application for reinstatement shall be in accordance with the
42 provisions of the Kansas administrative procedure act and shall be
43 reviewable in accordance with the Kansas judicial review act. The board,

1 on its own motion, may stay the effectiveness of an order of revocation of
2 license, *registration, permit or certificate*.

3 Sec. 18. K.S.A. 65-2846 is hereby amended to read as follows: 65-
4 2846. (a) *For all professions regulated by the board*, if the board's order is
5 adverse to the licensee, *registrant, permit holder, certificate holder* or
6 applicant for reinstatement of license, costs incurred by the board in
7 conducting any *investigation or* proceeding under the Kansas
8 administrative procedure act may be assessed against the parties to the
9 proceeding in such proportion as the board may determine upon
10 consideration of all relevant circumstances including the nature of the
11 proceeding and the level of participation by the parties. *Costs assessed by*
12 *the board pursuant to K.S.A. 65-2846, and amendments thereto, shall be*
13 *considered costs in an administrative matter pursuant to 11 U.S.C. § 523.*
14 If the board is the unsuccessful party, the costs shall be paid from the
15 healing arts fee fund.

16 (b) For purposes of this section, costs incurred shall ~~mean~~ *include,*
17 *but are not limited to:* The presiding officer fees and expenses, costs of
18 making any transcripts, *reasonable investigative costs*, witness fees and
19 expenses, mileage, travel allowances and subsistence expenses of board
20 employees and fees and expenses of agents of the board who provide
21 services pursuant to K.S.A. 65-2878a, and amendments thereto. Costs
22 incurred shall not include presiding officer fees and expenses ~~or costs of~~
23 ~~making and preparing the record~~ unless the board has designated or
24 retained the services of independent contractors to perform such functions.

25 (c) The board shall make any assessment of costs incurred as part of
26 the final order rendered in the proceeding. Such order shall include
27 findings and conclusions in support of the assessment of costs.

28 Sec. 19. K.S.A. 65-2850 is hereby amended to read as follows: 65-
29 2850. In the event the board appeals, no bond shall be required. If the
30 licensee appeals, the only bond required shall be one running to the state,
31 in an amount to be fixed by the court for the payment of the costs both
32 before the board and in the district court, and the bond shall be approved
33 by the judge of the district court. *The bond shall be cash or professional*
34 *surety.*

35 Sec. 20. K.S.A. 2013 Supp. 65-2851a is hereby amended to read as
36 follows: 65-2851a. (a) *Unless otherwise specified*, all administrative
37 proceedings provided for by ~~article 28 of chapter 65 of the Kansas Statutes~~
38 ~~Annotated the practice act of each profession regulated by the board and~~
39 ~~affecting any licensee licensed under that article, registrant, permit holder~~
40 *or certificate holder* shall be conducted in accordance with the provisions
41 of the Kansas administrative procedure act.

42 (b) Judicial review and civil enforcement of any agency action under
43 article 28 of chapter 65 of the Kansas Statutes Annotated, *and amendments*

1 *thereto*, shall be in accordance with the Kansas judicial review act.

2 Sec. 21. K.S.A. 65-2852 is hereby amended to read as follows: 65-
3 2852. The following fees shall be established by the board by rules and
4 regulations and collected by the board:

5 (a) For a license, issued upon the basis of an examination ~~given by~~
6 ~~the board~~, in a sum of not more than \$300;

7 (b) for a license, issued without examination and by endorsement, in
8 a sum of not more than \$300;

9 (c) for a license, issued upon a certificate from the national boards, in
10 a sum of not more than \$300;

11 (d) for the renewal of a license, the sum of not more than \$500;

12 (e) for a temporary permit, in a sum of not more than \$60;

13 (f) for an institutional license, in a sum of not more than \$300;

14 (g) for a visiting professor temporary license, in a sum of not more
15 than \$50;

16 (h) for a certified statement from the board that a licensee is licensed
17 in this state, the sum of not more than \$30;

18 (i) for any copy of any license issued by the board, the sum of not
19 more than \$30;

20 (j) for any examination given by the board, a sum in an amount equal
21 to the cost to the board of the examination;

22 (k) for application for and issuance of a special permit under K.S.A.
23 65-2811a, and amendments thereto, the sum of not more than \$60;

24 (l) for an exempt or inactive license or renewal of an exempt or
25 inactive license, the sum of not more than \$150;

26 (m) for conversion of an exempt or inactive license to a license to
27 practice the healing arts, the sum of not more than \$300;

28 (n) for reinstatement of a revoked license, in a sum of not more than
29 \$1,000;

30 (o) for a visiting clinical professor license, or renewal of a visiting
31 clinical professor license, in a sum of not more than \$300;

32 (p) for a postgraduate permit in a sum of not more than \$60;

33 (q) for a limited permit or renewal of a limited permit, the sum of not
34 more than \$60; and

35 (r) for a written verification of any license or permit, the sum of not
36 more than \$25.

37 Sec. 22. K.S.A. 65-2857 is hereby amended to read as follows: 65-
38 2857. An action in injunction or quo warranto may be brought and
39 maintained in the name of the state of Kansas to enjoin or oust from the
40 unlawful practice of ~~the healing arts, any person who shall practice the~~
41 ~~healing arts as defined in this act~~ *any profession regulated by the board or*
42 *any profession defined by the practice acts administered by the board*
43 without being duly licensed therefor.

1 Sec. 23. K.S.A. 65-2858 is hereby amended to read as follows: 65-
2 2858. The authority conferred by the preceding section shall be in addition
3 to, and not in lieu of, authority to prosecute criminally any person
4 unlawfully engaged in ~~the practice of the healing arts~~. The granting and
5 enforcing of an injunction or quo warranto to prevent ~~the~~ unlawful practice
6 ~~of the healing arts~~ is a preventive measure, not a punitive measure, and the
7 fact that a person has been charged with or convicted of criminally having
8 so practiced shall not prevent the issuance of a writ of injunction or quo
9 warranto to prevent ~~his~~ *such person's* further practice; nor shall the fact
10 that a writ of injunction or quo warranto has been granted to prevent
11 further practice preclude the institution of criminal prosecution and
12 punishment.

13 Sec. 24. K.S.A. 65-2860 is hereby amended to read as follows: 65-
14 2860. Any person who shall present to the board a diploma or certificate of
15 which ~~he or she~~ *such person* is not the rightful owner for the purpose of
16 procuring a license, or who shall falsely impersonate anyone to whom a
17 license, *registration, permit or certificate* has been issued by ~~said board~~,
18 ~~shall be deemed guilty of a class A misdemeanor of the board. Violation of~~
19 *this section is an unclassified nonperson felony. In addition, violation of*
20 *this section may render the violator liable for a civil penalty, as well as*
21 *reasonable costs of investigation and prosecution, unless otherwise*
22 *specified.*

23 Sec. 25. K.S.A. 65-2863a is hereby amended to read as follows: 65-
24 2863a. (a) The state board of healing arts, in addition to any other penalty
25 prescribed under the Kansas healing arts act, may assess a civil fine, after
26 proper notice and an opportunity to be heard, against a licensee for a
27 violation of the Kansas healing arts act in an amount not to exceed \$5,000
28 for the first violation, \$10,000 for the second violation and \$15,000 for the
29 third violation and for each subsequent violation. All fines assessed and
30 collected under this section shall be remitted to the state treasurer in
31 accordance with the provisions of K.S.A. 75-4215, and amendments
32 thereto. Upon receipt of each such remittance, the state treasurer shall
33 deposit the entire amount in the state treasury to the credit of the state
34 general fund. *For the purposes of this section, fines shall be considered*
35 *administrative fines pursuant to 11 U.S.C. § 523.*

36 (b) This section shall be part of and supplemental to the Kansas
37 healing arts act.

38 Sec. 26. K.S.A. 65-2864 is hereby amended to read as follows: 65-
39 2864. The board shall enforce the provisions of ~~this act~~ *all practice acts*
40 *administered by the board* and for that purpose shall make all necessary
41 investigations relative thereto. Every licensee, *registrant, permit holder or*
42 *certificate holder* in this state, including members of the board, shall
43 furnish the board such evidence as ~~he~~ *such person* may have relative to

1 any alleged violation which is being investigated. ~~He~~ *Such person* shall
2 also report to the board the name of every person without a license that ~~he~~
3 *such person* has reason to believe is engaged in practicing ~~the healing arts~~
4 ~~in this state~~ *any profession regulated by the board.*

5 Sec. 27. K.S.A. 65-2865 is hereby amended to read as follows: 65-
6 2865. The board shall promulgate all necessary rules and regulations, not
7 inconsistent herewith, for carrying out the provisions of ~~this act~~ *any*
8 *practice act administered by the board*, which rules and regulations shall
9 include standards for the dispensing of drugs by persons licensed to
10 practice medicine and surgery. It may also adopt rules and regulations
11 supplementing any of the provisions herein contained but not inconsistent
12 with ~~this act~~ *any practice act administered by the board*. All rules and
13 regulations promulgated and adopted by the board shall be filed with the
14 secretary of state as required by law.

15 Sec. 28. K.S.A. 65-2866 is hereby amended to read as follows: 65-
16 2866. (a) Upon the request of the board, the attorney general or county or
17 district attorney of the proper county shall institute in the name of the state
18 or board the proper proceedings against any person regarding whom a
19 complaint has been made charging ~~him or her~~ *such person* with the
20 violation of any of the provisions of this act, and the attorney general, and
21 such county or district attorney, at the request of the attorney general or of
22 the board shall appear and prosecute any and all such actions.

23 (b) *In pursuing an action under the Kansas healing arts act solely in*
24 *the name of the state or county, the attorney general and the county or*
25 *district attorney are authorized to sue for and collect reasonable expenses*
26 *and investigation fees as determined by the court. Civil penalties or*
27 *contempt penalties sued for and recovered by the attorney general shall be*
28 *paid into the state general fund. Civil penalties and contempt penalties*
29 *sued for and recovered by the county or district attorney shall be paid into*
30 *the general fund of the county where the proceedings were instituted.*

31 Sec. 29. K.S.A. 2013 Supp. 65-2867 is hereby amended to read as
32 follows: 65-2867. (a) It shall be unlawful for any person who is not
33 licensed under the Kansas healing arts act or whose license has been
34 revoked or suspended to open or maintain an office for the practice of the
35 healing arts as defined in this act or to announce or hold out to the public
36 the intention, authority or skill to practice the healing arts as defined in the
37 Kansas healing arts act by the use of any professional degree or
38 designation, sign, card, circular, device, advertisement or representation.

39 ~~(b) This section shall not apply to any person licensed by the board~~
40 ~~whose license was expired or lapsed and reinstated within a six month~~
41 ~~period pursuant to K.S.A. 65-2809, and amendments thereto.~~

42 (e) (b) This section shall not apply to any health care provider who in
43 good faith renders emergency care or assistance at the scene of an

1 emergency or accident as authorized by K.S.A. 65-2891, and amendments
2 thereto.

3 ~~(d)~~ (c) It shall not be considered a violation of the Kansas healing arts
4 act if an unlicensed person appends to such person's name the word
5 "doctor" or the letters "M.D.," "D.O." or "D.C.," if such person has earned
6 such professional degree from an accredited healing arts school or college,
7 and if the use of such word or initials is not misleading the public, patients
8 or other health care providers that such person: (1) Is engaged in the
9 practice of the healing arts within this state; or (2) is licensed to practice
10 the healing arts in this state. The provisions of this subsection shall apply
11 to any proceeding pending before the board that has not reached a final
12 order or disposition by the board prior to the effective date of this act and
13 to any proceeding commenced before the board on or after the effective
14 date of this act.

15 (e) Violation of this section is a class C misdemeanor.

16 Sec. 30. K.S.A. 65-28a02 is hereby amended to read as follows: 65-
17 28a02. (a) The following words and phrases when used in the physician
18 assistant licensure act shall have the meanings respectively ascribed to
19 them in this section:

20 (1) "Board" means the state board of healing arts.

21 (2) "Direction and supervision" means the guidance, direction and
22 coordination of activities of a physician assistant by such physician
23 assistant's ~~responsible or designated~~ *supervising* physician, whether
24 written or verbal, whether immediate or by prior arrangement, in
25 accordance with standards established by the board by rules and
26 regulations, which standards shall be designed to ensure adequate direction
27 and supervision by the ~~responsible or designated~~ *supervising* physician of
28 the physician assistant. The term "direction and supervision" shall not be
29 construed to mean that the immediate or physical presence of the
30 ~~responsible or designated~~ *supervising* physician is required during the
31 performance of the physician assistant.

32 (3) "Physician" means any person licensed by the state board of
33 healing arts to practice medicine and surgery.

34 (4) "Physician assistant" means a person who is licensed in
35 accordance with the provisions of K.S.A. 65-28a04, and amendments
36 thereto, and who provides patient services under the direction and
37 supervision of a ~~responsible~~ *supervising* physician.

38 (5) ~~Responsible Supervising~~ *supervising* physician" means a physician who has
39 accepted ~~continuous and ultimate~~ responsibility for the medical services
40 rendered and actions of the physician assistant while performing under the
41 direction and supervision of the ~~responsible~~ *supervising* physician.

42 (6) ~~Designated physician" means a physician designated by the~~
43 ~~responsible physician to ensure direction and supervision of the physician~~

1 assistant.

2 (7) (6) "Licensee," for purposes of the physician assistant licensure
3 act, means all persons issued a license or temporary license pursuant to the
4 physician assistant licensure act.

5 (8) (7) "License," for purposes of the physician assistant licensure act,
6 means any license or temporary license granted by the physician assistant
7 licensure act.

8 Sec. 31. K.S.A. 2013 Supp. 65-28a03 is hereby amended to read as
9 follows: 65-28a03. (a) *There is hereby created a designation of active*
10 *license. The board is authorized to issue an active license to a physician*
11 *assistant who makes written application for such license on a form*
12 *provided by the board and remits the fee for an active license established*
13 *pursuant to subsection (f). As a condition of engaging in active practice as*
14 *a physician assistant, each licensed physician assistant shall file a request*
15 *to engage in active practice signed by the physician assistant and the*
16 *physician who will be responsible for the physician assistant. The request*
17 *shall contain such information as required by rules and regulations adopted*
18 *by the board. The board shall maintain a list of the names of physician*
19 *assistants who may engage in active practice in this state.*

20 (b) All licenses, except temporary licenses, shall expire on the date of
21 expiration established by rules and regulations of the state board of healing
22 arts and may be renewed as required by the board. The request for renewal
23 shall be on a form provided by the state board of healing arts and shall be
24 accompanied by the renewal fee established pursuant to this section, which
25 shall be paid not later than the expiration date of the license. *The board,*
26 *prior to renewal of an active license, shall require the licensee to submit to*
27 *the board evidence satisfactory to the board that the licensee is*
28 *maintaining a policy of professional liability insurance as required by*
29 *K.S.A. 40-3402, and amendments thereto, and has paid the premium*
30 *surcharges as required by K.S.A. 40-3404, and amendments thereto.*

31 (c) At least 30 days before the expiration of the license of a physician
32 assistant, except a temporary license, the ~~state board of healing arts~~ shall
33 notify the licensee of the expiration by mail addressed to the licensee's last
34 mailing address as noted upon the office records of the board. If the
35 licensee fails to pay the renewal fee by the date of expiration of the
36 license, the licensee shall be given a second notice that the licensee's
37 license has expired and the license may be renewed only if the renewal fee
38 and the late renewal fee are received by the ~~state board of healing arts~~
39 within the 30-day period following the date of expiration and that, if both
40 fees are not received within the 30-day period, the license shall be deemed
41 canceled by operation of law without further proceedings for failure to
42 renew and shall be reissued only after the license has been reinstated under
43 subsection (d).

1 (d) Any license canceled for failure to renew as herein provided may
2 be reinstated upon recommendation of the ~~state board of healing arts~~ and
3 upon payment of the reinstatement fee and upon submitting evidence of
4 satisfactory completion of any applicable continuing education
5 requirements established by the board. The board shall adopt rules and
6 regulations establishing appropriate continuing education requirements for
7 reinstatement of licenses canceled for failure to renew.

8 (e) There is hereby created the designation of inactive license. The
9 board is authorized to issue an inactive license to any licensee who makes
10 written application for such license on a form provided by the board and
11 remits the fee for an inactive license established pursuant to subsection ~~(g)~~
12 *(f)* of this section. The board may issue an inactive license only to a person
13 who meets all the requirements for a license to practice as a physician
14 assistant and who does not engage in active practice as a physician
15 assistant in the state of Kansas. An inactive license shall not entitle the
16 holder to engage in active practice. The provisions of subsections (c) and
17 (d) of this section relating to expiration, renewal and reinstatement of a
18 license shall be applicable to an inactive license issued under this
19 subsection. Each inactive licensee may apply to engage in active practice
20 by presenting a request required by subsection (a) *and submit to the board*
21 *evidence satisfactory to the board that such licensee is maintaining a*
22 *policy of professional liability insurance as required by K.S.A. 40-3402,*
23 *and amendments thereto, and has paid the premium surcharges as*
24 *required by K.S.A. 40-3404, and amendments thereto. The request shall*
25 *contain such information as required by rules and regulations adopted by*
26 *the board.* The request shall be accompanied by the fee established
27 pursuant to subsection ~~(g)~~ *(f)* .

28 ~~(f) There is hereby created a designation of federally active license.~~
29 ~~The board is authorized to issue a federally active license to any licensee~~
30 ~~who makes a written application for such license on a form provided by~~
31 ~~the board and remits the same fee required for a license established under~~
32 ~~subsection (g). The board may issue a federally active license only to a~~
33 ~~person who meets all the requirements for a license to practice as a~~
34 ~~physician assistant and who practices as a physician assistant solely in the~~
35 ~~course of employment or active duty in the United States government or~~
36 ~~any of its departments, bureaus or agencies. The provisions of subsections~~
37 ~~(c) and (d) relating to expiration, renewal and reinstatement of a license~~
38 ~~shall be applicable to a federally active license issued under this~~
39 ~~subsection. Each federally active licensee may apply to engage in active~~
40 ~~practice by presenting a request required by subsection (a) of this section.~~

41 ~~(g)~~ *(f)* The following fees shall be fixed by rules and regulations
42 adopted by the state board of healing arts and shall be collected by the
43 board:

- 1 (1) For ~~any~~ *an active* license as a physician assistant, the sum of not
 2 more than \$200;
- 3 (2) *for any license by endorsement as a physician assistant, the sum*
 4 *of not more than \$200;*
- 5 ~~(2)~~ (3) for temporary licensure as a physician assistant, the sum of not
 6 more than \$30;
- 7 ~~(3)~~ (4) for the renewal of ~~a~~ *an active* license to practice as a physician
 8 assistant ~~or a federally active license~~, the sum of not more than \$150;
- 9 ~~(4)~~ (5) for renewal of an inactive license, the sum of not more than
 10 \$150;
- 11 ~~(5)~~ (6) for the late renewal of any license as a physician assistant, the
 12 sum of not more than \$250;
- 13 ~~(6)~~ (7) for reinstatement of a license canceled for failure to renew, the
 14 sum of not more than \$250;
- 15 ~~(7)~~ (8) for a certified statement from the board that a physician
 16 assistant is licensed in this state, the sum of not more than \$30;
- 17 ~~(8)~~ (9) for a copy of the licensure certificate of a physician assistant,
 18 the sum of not more than \$25; and
- 19 ~~(9)~~ (10) for conversion of an inactive license to ~~a~~ *an active* license to
 20 actively practice as a physician assistant ~~or a federally active license~~, the
 21 sum of not more than \$150.
- 22 ~~(h)~~ (g) The ~~state board of healing arts~~ shall remit all moneys received
 23 by or for the board under the provisions of this act to the state treasurer
 24 and such money shall be deposited in the state treasury, credited to the
 25 state general fund and the healing arts fee fund and expended all in
 26 accordance with K.S.A. 65-2855, and amendments thereto.
- 27 ~~(i)~~ (h) The board may promulgate all necessary rules and regulations
 28 for carrying out the provisions of this act.
- 29 Sec. 32. K.S.A. 2013 Supp. 65-28a05 is hereby amended to read as
 30 follows: 65-28a05. A licensee's license may be revoked, suspended or
 31 limited, or the licensee may be publicly or privately censured, or an
 32 application for a license or for reinstatement of a license may be denied
 33 upon a finding of the existence of any of the following grounds:
- 34 (a) The licensee has committed an act of unprofessional conduct as
 35 defined by rules and regulations adopted by the board;
- 36 (b) the licensee has obtained a license by means of fraud,
 37 misrepresentations or concealment of material facts;
- 38 (c) the licensee has committed an act of professional incompetency as
 39 defined by rules and regulations adopted by the board;
- 40 (d) the licensee has been convicted of a felony;
- 41 (e) the licensee has violated any provision of this act, and
 42 amendments thereto;
- 43 (f) the licensee has violated any lawful order or rule and regulation of

1 the board;

2 (g) *the licensee has been found to be mentally ill, disabled, not guilty*
3 *by reason of insanity, not guilty because the licensee suffers from a mental*
4 *disease or defect or is incompetent to stand trial by a court of competent*
5 *jurisdiction;*

6 (h) *the licensee has violated a federal law or regulation relating to*
7 *controlled substances;*

8 (i) *the licensee has failed to report to the board any adverse action*
9 *taken against the licensee by another state or licensing jurisdiction, a peer*
10 *review body, a health care facility, a professional association or society, a*
11 *governmental agency, by a law enforcement agency or a court for acts or*
12 *conduct similar to acts or conduct which would constitute grounds for*
13 *disciplinary action under this section;*

14 (j) *the licensee has surrendered a license or authorization to practice*
15 *as a physician assistant in another state or jurisdiction, has surrendered*
16 *the authority to utilize controlled substances issued by any state or federal*
17 *agency, has agreed to a limitation to or restriction of privileges at any*
18 *medical care facility or has surrendered the licensee's membership on any*
19 *professional staff or in any professional association or society while under*
20 *investigation for acts or conduct similar to acts or conduct which would*
21 *constitute grounds for disciplinary action under this section;*

22 (k) *the licensee has failed to report to the board the surrender of the*
23 *licensee's license or authorization to practice as a physician assistant in*
24 *another state or jurisdiction or the surrender of the licensee's membership*
25 *on any professional staff or in any professional association or society*
26 *while under investigation for acts or conduct similar to acts or conduct*
27 *which would constitute grounds for disciplinary action under this section;*

28 (l) *the licensee has an adverse judgment, award or settlement against*
29 *the licensee resulting from a medical liability claim related to acts or*
30 *conduct similar to acts or conduct which would constitute grounds for*
31 *disciplinary action under this section;*

32 (m) *the licensee has failed to report to the board any adverse*
33 *judgment, settlement or award against the licensee resulting from a*
34 *medical malpractice liability claim related to acts or conduct similar to*
35 *acts or conduct which would constitute grounds for disciplinary action*
36 *under this section;*

37 (n) *the licensee's ability to practice with reasonable skill and safety*
38 *to patients is impaired by reason of physical or mental illness, or*
39 *condition or use of alcohol, drugs or controlled substances. All*
40 *information, reports, findings and other records relating to impairment*
41 *shall be confidential and not subject to discovery by or release to any*
42 *person or entity outside of a board proceeding;*

43 ~~(g)~~ (o) *the licensee has exceeded or has acted outside the scope of*

1 authority given the physician assistant by the ~~responsible supervising~~
2 physician or by this act; *or*

3 ~~(H)~~ (p) the licensee has assisted suicide in violation of K.S.A. 21-
4 3406, prior to its repeal, or K.S.A. 2013 Supp. 21-5407, and amendments
5 thereto, as established by any of the following:

6 (1) A copy of the record of criminal conviction or plea of guilty for a
7 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2013
8 Supp. 21-5407, and amendments thereto.

9 (2) A copy of the record of a judgment of contempt of court for
10 violating an injunction issued under K.S.A. 60-4404, and amendments
11 thereto.

12 (3) A copy of the record of a judgment assessing damages under
13 K.S.A. 60-4405, and amendments thereto.

14 Sec. 33. K.S.A. 65-28a06 is hereby amended to read as follows: 65-
15 28a06. (a) It shall be unlawful for any person who is not licensed under
16 this act or whose license has been revoked or suspended to engage in the
17 practice as a physician assistant as defined by this act.

18 (b) No person shall use any title, abbreviation, letters, figures, sign,
19 card or device to indicate that any person is a licensed physician assistant,
20 nor shall any person represent oneself to be a licensed physician assistant
21 unless such person has been duly licensed as a physician assistant in
22 accordance with the provisions of this act.

23 (c) The provisions of this act shall not be construed to include the
24 following persons:

25 (1) Persons rendering gratuitous services in the case of an emergency.

26 (2) Persons gratuitously administering ordinary household remedies.

27 (3) Individuals practicing religious beliefs which provide for reliance
28 on spiritual means alone for healing.

29 (4) Students while performing professional services in an approved
30 physician assistant education and training program ~~who after completing~~
31 ~~one year's study treat diseases~~ under the supervision of an approved
32 instructor.

33 ~~(5) Students upon the completion of an approved physician assistant~~
34 ~~education and training program and who, as a part of their academic~~
35 ~~requirements for a degree, serve a preceptorship not to exceed 90 days~~
36 ~~under the supervision of a licensed physician.~~

37 ~~(6)~~ (5) Persons whose professional services are performed under the
38 direct and personal supervision or by order of a practitioner who is
39 licensed under the healing arts act.

40 ~~(7)~~ (6) Other health care providers licensed, registered, certified or
41 otherwise credentialed by agencies of the state of Kansas.

42 ~~(8) Physician assistants in the United States army, navy, air force,~~
43 ~~public health service, coast guard, other military service and under other~~

1 ~~federal employment when acting in the line of duty in this state~~ (7)
2 *Persons who practice as physician assistants solely in the course of*
3 *employment or active duty in the United States government or any of its*
4 *departments, bureaus or agencies.*

5 (d) Any person violating the provisions of this section shall be guilty
6 of a class B misdemeanor.

7 Sec. 34. K.S.A. 65-28a07 is hereby amended to read as follows: 65-
8 28a07. (a) ~~The state board of healing arts~~ shall provide for the temporary
9 licensure of any physician assistant who has made proper application for
10 licensure, has the required qualifications for licensure, except for
11 examination, and has paid the prescribed license fee. Such temporary
12 license shall authorize the person so licensed to provide patient services
13 within the limits of the temporary license.

14 (b) A temporary license is valid: (1) ~~For one year~~ *six months* from the
15 date of issuance; or (2) until the ~~state board of healing arts~~ makes a final
16 determination on the applicant's request for licensure. ~~The state board of~~
17 ~~healing arts~~ may extend a temporary license, upon a majority vote of the
18 members of the board, for a period not to exceed one year.

19 Sec. 35. K.S.A. 65-28a08 is hereby amended to read as follows: 65-
20 28a08. (a) The practice of a physician assistant shall include medical
21 services within the education, training and experience of the physician
22 assistant that are delegated by the ~~responsible supervising~~ physician.
23 Physician assistants practice in a dependent role with a ~~responsible~~
24 ~~supervising~~ physician, and may perform those duties and responsibilities
25 through delegated authority or written ~~protocol~~ *agreement*. Medical
26 services rendered by physician assistants may be performed in any setting
27 authorized by the ~~responsible supervising~~ physician, including but not
28 limited to, clinics, hospitals, ambulatory surgical centers, patient homes,
29 nursing homes and other medical institutions.

30 (b) (1) A person licensed as a physician assistant may perform, only
31 under the direction and supervision of a physician, acts which constitute
32 the practice of medicine and surgery to the extent and in the manner
33 authorized by the physician responsible for the physician assistant and
34 only to the extent such acts are consistent with rules and regulations
35 adopted by the board which relate to acts performed by a physician
36 assistant under the ~~responsible supervising~~ physician's direction and
37 supervision. A physician assistant may prescribe drugs pursuant to a
38 written ~~protocol~~ *agreement* as authorized by the ~~responsible supervising~~
39 physician.

40 (2) *A physician assistant, when authorized by a supervising*
41 *physician, may dispense prescription-only drugs:*

42 (A) *In accordance with rules and regulations adopted by the board*
43 *governing prescription-only drugs;*

1 (B) when dispensing such prescription-only drugs is in the best
2 interests of the patient and pharmacy services are not readily available;
3 and

4 (C) if such prescription-only drugs do not exceed the quantity
5 necessary for a 72-hour supply.

6 (c) Before a physician assistant shall perform under the direction and
7 supervision of a *supervising* physician, such physician assistant shall be
8 identified to the patient and others involved in providing the patient
9 services as a physician assistant to the ~~responsible~~ *supervising* physician.
10 Physician assistants licensed under the provisions of this act shall keep
11 ~~their~~ *such person's* license available for inspection at their primary place of
12 business. A physician assistant may not perform any act or procedure
13 performed in the practice of optometry except as provided in K.S.A. 65-
14 1508 and 65-2887, and amendments thereto.

15 (d) (1) *The board shall adopt rules and regulations governing the*
16 *practice of physician assistants, including the delegation, direction and*
17 *supervision responsibilities of a supervising physician. Such rules and*
18 *regulations shall establish conditions and limitations as the board*
19 *determines to be necessary to protect the public health and safety, and*
20 *may include a limit upon the number of physician assistants that a*
21 *supervising physician is able to safely and properly supervise. In*
22 *developing rules and regulations relating to the practice of physician*
23 *assistants, the board shall take into consideration the amount of training*
24 *and capabilities of physician assistants, the different practice settings in*
25 *which physician assistants and supervising physicians practice, the needs*
26 *of the geographic area of the state in which the physician assistant and the*
27 *supervising physician practice and the differing degrees of direction and*
28 *supervision by a supervising physician appropriate for such settings and*
29 *areas.*

30 (2) The board shall adopt rules and regulations governing the
31 prescribing of drugs by physician assistants and the responsibilities of the
32 ~~responsible~~ *supervising* physician with respect thereto. Such rules and
33 regulations shall establish such conditions and limitations as the board
34 determines to be necessary to protect the public health and safety. In
35 developing rules and regulations relating to the prescribing of drugs by
36 physician assistants, the board shall take into consideration the amount of
37 training and capabilities of physician assistants, the different practice
38 settings in which physician assistants and ~~responsible~~ *supervising*
39 physicians practice, the degree of direction and supervision to be provided
40 by a ~~responsible~~ *supervising* physician and the needs of the geographic
41 area of the state in which the *supervising* physician's physician assistant
42 and the ~~responsible~~ *supervising* physician practice. In all cases in which a
43 physician assistant is authorized to prescribe drugs by a ~~responsible~~

1 ~~supervising~~ physician, a written ~~protocol agreement~~ between the
2 ~~responsible supervising~~ physician and the physician assistant containing
3 the essential terms of such authorization shall be in effect. Any written
4 prescription order shall include the name, address and telephone number of
5 the ~~responsible supervising~~ physician. In no case shall the scope of the
6 authority of the physician assistant to prescribe drugs exceed the normal
7 and customary practice of the ~~responsible supervising~~ physician in the
8 prescribing of drugs.

9 (e) The physician assistant may ~~not dispense drugs, but may~~ request,
10 receive and sign for professional samples and may distribute professional
11 samples to patients pursuant to a written ~~protocol agreement~~ as authorized
12 by the ~~responsible supervising~~ physician. In order to prescribe *or dispense*
13 controlled substances, the physician assistant shall register with the federal
14 drug enforcement administration.

15 (f) As used in this section, "drug" means those articles and substances
16 defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

17 Sec. 36. K.S.A. 65-28a09 is hereby amended to read as follows: 65-
18 28a09. (a) If a ~~responsible supervising~~ physician temporarily leaves such
19 physician's customary location of practice, the ~~responsible supervising~~
20 physician shall, by prior arrangement, name ~~a designated another~~
21 ~~supervising~~ physician who shall provide direction and supervision to the
22 physician assistant of such ~~responsible physician~~.

23 (b) A physician assistant shall not perform professional services
24 unless the name, address and signature of each ~~responsible supervising~~
25 physician and the form required under subsection (a)(2) of K.S.A. 65-
26 28a03, and amendments thereto, have been provided to the board. A
27 ~~responsible supervising~~ physician and physician assistant shall notify the
28 board when supervision and direction of the physician assistant has
29 terminated. The board shall provide forms for identifying each ~~designated~~
30 ~~supervising~~ physician and for giving notice that direction and supervision
31 has terminated. These forms may direct that additional information be
32 provided, including a copy of any ~~protocols written agreements~~, as
33 required by rules and regulations adopted by the board.

34 Sec. 37. K.S.A. 65-28a11 is hereby amended to read as follows: 65-
35 28a11. (a) There is established a physician assistant council to advise the
36 board in carrying out the provisions of K.S.A. 65-28a01 through ~~65-28a10,~~
37 ~~inclusive 65-28a09~~, and amendments thereto. The council shall consist of
38 five members, all citizens and residents of the state of Kansas appointed as
39 follows: One member shall be a physician appointed by the ~~state board of~~
40 ~~healing arts~~ who is a ~~responsible supervising~~ physician for a physician
41 assistant; one member shall be the president of the ~~state board of healing~~
42 ~~arts~~ or a person designated by the president; and three members shall be
43 licensed physician assistants appointed by the governor. The governor,

1 insofar as possible, shall appoint persons from different geographical areas
2 and persons who represent various types of practice settings. If a vacancy
3 occurs on the council, the appointing authority of the position which has
4 become vacant shall appoint a person of like qualifications to fill the
5 vacant position for the unexpired term, if any. The Kansas academy of
6 physician assistants shall recommend the names of licensed physician
7 assistants to the governor in a number equal to at least twice the positions
8 or vacancies to be filled, and the governor may appoint members to fill the
9 positions or vacancies from the submitted list. Members of the council
10 appointed by the governor on and after the effective date of this act shall
11 be appointed for terms of three years and until their successors are
12 appointed and qualified except that of the members first appointed by the
13 governor on or after the effective date of this act one shall be appointed for
14 a term of one year, one shall be appointed for a term of two years and one
15 shall be appointed for a term of three years, as designated by the governor.
16 The member appointed by the ~~state board of healing arts~~ shall serve at the
17 pleasure of the ~~state board of healing arts~~. A member designated by the
18 president of the ~~state board of healing arts~~ shall serve at the pleasure of the
19 president.

20 (b) Members of the council attending meetings of the council, or
21 attending a subcommittee meeting thereof authorized by the council, shall
22 be paid amounts provided in subsection (e) of K.S.A. 75-3223, and
23 amendments thereto, from the healing arts fee fund.

24 Sec. 38. K.S.A. 2013 Supp. 65-4101 is hereby amended to read as
25 follows: 65-4101. As used in this act: (a) "Administer" means the direct
26 application of a controlled substance, whether by injection, inhalation,
27 ingestion or any other means, to the body of a patient or research subject
28 by:

29 (1) A practitioner or pursuant to the lawful direction of a practitioner;
30 or

31 (2) the patient or research subject at the direction and in the presence
32 of the practitioner.

33 (b) "Agent" means an authorized person who acts on behalf of or at
34 the direction of a manufacturer, distributor or dispenser. It does not include
35 a common carrier, public warehouseman or employee of the carrier or
36 warehouseman.

37 (c) "Application service provider" means an entity that sells
38 electronic prescription or pharmacy prescription applications as a hosted
39 service where the entity controls access to the application and maintains
40 the software and records on its server.

41 (d) "Board" means the state board of pharmacy.

42 (e) "Bureau" means the bureau of narcotics and dangerous drugs,
43 United States department of justice, or its successor agency.

1 (f) "Controlled substance" means any drug, substance or immediate
2 precursor included in any of the schedules designated in K.S.A. 65-4105,
3 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

4 (g) (1) "Controlled substance analog" means a substance that is
5 intended for human consumption, and:

6 (A) The chemical structure of which is substantially similar to the
7 chemical structure of a controlled substance listed in or added to the
8 schedules designated in K.S.A. 65-4105 or 65-4107, and amendments
9 thereto;

10 (B) which has a stimulant, depressant or hallucinogenic effect on the
11 central nervous system substantially similar to the stimulant, depressant or
12 hallucinogenic effect on the central nervous system of a controlled
13 substance included in the schedules designated in K.S.A. 65-4105 or 65-
14 4107, and amendments thereto; or

15 (C) with respect to a particular individual, which such individual
16 represents or intends to have a stimulant, depressant or hallucinogenic
17 effect on the central nervous system substantially similar to the stimulant,
18 depressant or hallucinogenic effect on the central nervous system of a
19 controlled substance included in the schedules designated in K.S.A. 65-
20 4105 or 65-4107, and amendments thereto.

21 (2) "Controlled substance analog" does not include:

22 (A) A controlled substance;

23 (B) a substance for which there is an approved new drug application;
24 or

25 (C) a substance with respect to which an exemption is in effect for
26 investigational use by a particular person under section 505 of the federal
27 food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with
28 respect to the substance is permitted by the exemption.

29 (h) "Counterfeit substance" means a controlled substance which, or
30 the container or labeling of which, without authorization bears the
31 trademark, trade name or other identifying mark, imprint, number or
32 device or any likeness thereof of a manufacturer, distributor or dispenser
33 other than the person who in fact manufactured, distributed or dispensed
34 the substance.

35 (i) "Cultivate" means the planting or promotion of growth of five or
36 more plants which contain or can produce controlled substances.

37 (j) "DEA" means the U.S. department of justice, drug enforcement
38 administration.

39 (k) "Deliver" or "delivery" means the actual, constructive or
40 attempted transfer from one person to another of a controlled substance,
41 whether or not there is an agency relationship.

42 (l) "Dispense" means to deliver a controlled substance to an ultimate
43 user or research subject by or pursuant to the lawful order of a practitioner,

1 including the packaging, labeling or compounding necessary to prepare the
2 substance for that delivery, or pursuant to the prescription of a mid-level
3 practitioner.

4 (m) "Dispenser" means a practitioner or pharmacist who dispenses.

5 (n) "Distribute" means to deliver other than by administering or
6 dispensing a controlled substance.

7 (o) "Distributor" means a person who distributes.

8 (p) "Drug" means: (1) Substances recognized as drugs in the official
9 United States pharmacopoeia, official homeopathic pharmacopoeia of the
10 United States or official national formulary or any supplement to any of
11 them; (2) substances intended for use in the diagnosis, cure, mitigation,
12 treatment or prevention of disease in man or animals; (3) substances (other
13 than food) intended to affect the structure or any function of the body of
14 man or animals; and (4) substances intended for use as a component of any
15 article specified in clause (1), (2) or (3) of this subsection. It does not
16 include devices or their components, parts or accessories.

17 (q) "Immediate precursor" means a substance which the board has
18 found to be and by rule and regulation designates as being the principal
19 compound commonly used or produced primarily for use and which is an
20 immediate chemical intermediary used or likely to be used in the
21 manufacture of a controlled substance, the control of which is necessary to
22 prevent, curtail or limit manufacture.

23 (r) "Electronic prescription" means an electronically prepared
24 prescription that is authorized and transmitted from the prescriber to the
25 pharmacy by means of electronic transmission.

26 (s) "Electronic prescription application" means software that is used
27 to create electronic prescriptions and that is intended to be installed on the
28 prescriber's computers and servers where access and records are controlled
29 by the prescriber.

30 (t) "Electronic signature" means a confidential personalized digital
31 key, code, number or other method for secure electronic data transmissions
32 which identifies a particular person as the source of the message,
33 authenticates the signatory of the message and indicates the person's
34 approval of the information contained in the transmission.

35 (u) "Electronic transmission" means the transmission of an electronic
36 prescription, formatted as an electronic data file, from a prescriber's
37 electronic prescription application to a pharmacy's computer, where the
38 data file is imported into the pharmacy prescription application.

39 (v) "Electronically prepared prescription" means a prescription that is
40 generated using an electronic prescription application.

41 (w) "Facsimile transmission" or "fax transmission" means the
42 transmission of a digital image of a prescription from the prescriber or the
43 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but

1 is not limited to, transmission of a written prescription between the
2 prescriber's fax machine and the pharmacy's fax machine; transmission of
3 an electronically prepared prescription from the prescriber's electronic
4 prescription application to the pharmacy's fax machine, computer or
5 printer; or transmission of an electronically prepared prescription from the
6 prescriber's fax machine to the pharmacy's fax machine, computer or
7 printer.

8 (x) "Intermediary" means any technology system that receives and
9 transmits an electronic prescription between the prescriber and the
10 pharmacy.

11 (y) "Isomer" means all enantiomers and diastereomers.

12 (z) "Manufacture" means the production, preparation, propagation,
13 compounding, conversion or processing of a controlled substance either
14 directly or indirectly or by extraction from substances of natural origin or
15 independently by means of chemical synthesis or by a combination of
16 extraction and chemical synthesis and includes any packaging or
17 repackaging of the substance or labeling or relabeling of its container,
18 except that this term does not include the preparation or compounding of a
19 controlled substance by an individual for the individual's own lawful use
20 or the preparation, compounding, packaging or labeling of a controlled
21 substance:

22 (1) By a practitioner or the practitioner's agent pursuant to a lawful
23 order of a practitioner as an incident to the practitioner's administering or
24 dispensing of a controlled substance in the course of the practitioner's
25 professional practice; or

26 (2) by a practitioner or by the practitioner's authorized agent under
27 such practitioner's supervision for the purpose of or as an incident to
28 research, teaching or chemical analysis or by a pharmacist or medical care
29 facility as an incident to dispensing of a controlled substance.

30 (aa) "Marijuana" means all parts of all varieties of the plant Cannabis
31 whether growing or not, the seeds thereof, the resin extracted from any
32 part of the plant and every compound, manufacture, salt, derivative,
33 mixture or preparation of the plant, its seeds or resin. It does not include
34 the mature stalks of the plant, fiber produced from the stalks, oil or cake
35 made from the seeds of the plant, any other compound, manufacture, salt,
36 derivative, mixture or preparation of the mature stalks, except the resin
37 extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant
38 which is incapable of germination.

39 (bb) "Medical care facility" shall have the meaning ascribed to that
40 term in K.S.A. 65-425, and amendments thereto.

41 (cc) "Mid-level practitioner" means an advanced practice registered
42 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
43 thereto, who has authority to prescribe drugs pursuant to a written protocol

1 with a ~~responsible~~ *supervising* physician under K.S.A. 65-1130, and
2 amendments thereto, or a physician assistant licensed under the physician
3 assistant licensure act who has authority to prescribe drugs pursuant to a
4 written protocol with a ~~responsible~~ *supervising* physician under K.S.A. 65-
5 28a08, and amendments thereto.

6 (dd) "Narcotic drug" means any of the following whether produced
7 directly or indirectly by extraction from substances of vegetable origin or
8 independently by means of chemical synthesis or by a combination of
9 extraction and chemical synthesis:

10 (1) Opium and opiate and any salt, compound, derivative or
11 preparation of opium or opiate;

12 (2) any salt, compound, isomer, derivative or preparation thereof
13 which is chemically equivalent or identical with any of the substances
14 referred to in clause (1) but not including the isoquinoline alkaloids of
15 opium;

16 (3) opium poppy and poppy straw;

17 (4) coca leaves and any salt, compound, derivative or preparation of
18 coca leaves, and any salt, compound, isomer, derivative or preparation
19 thereof which is chemically equivalent or identical with any of these
20 substances, but not including decocainized coca leaves or extractions of
21 coca leaves which do not contain cocaine or ecgonine.

22 (ee) "Opiate" means any substance having an addiction-forming or
23 addiction-sustaining liability similar to morphine or being capable of
24 conversion into a drug having addiction-forming or addiction-sustaining
25 liability. It does not include, unless specifically designated as controlled
26 under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer
27 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
28 include its racemic and levorotatory forms.

29 (ff) "Opium poppy" means the plant of the species *Papaver*
30 *somniferum* L. except its seeds.

31 (gg) "Person" means an individual, corporation, government, or
32 governmental subdivision or agency, business trust, estate, trust,
33 partnership or association or any other legal entity.

34 (hh) "Pharmacist" means any natural person licensed under K.S.A.
35 65-1625 et seq., to practice pharmacy.

36 (ii) "Pharmacist intern" means: (1) A student currently enrolled in an
37 accredited pharmacy program; (2) a graduate of an accredited pharmacy
38 program serving such person's internship; or (3) a graduate of a pharmacy
39 program located outside of the United States which is not accredited and
40 who had successfully passed equivalency examinations approved by the
41 board.

42 (jj) "Pharmacy prescription application" means software that is used
43 to process prescription information, is installed on a pharmacy's computers

1 and servers, and is controlled by the pharmacy.

2 (kk) "Poppy straw" means all parts, except the seeds, of the opium
3 poppy, after mowing.

4 (ll) "Practitioner" means a person licensed to practice medicine and
5 surgery, dentist, podiatrist, veterinarian, optometrist, or scientific
6 investigator or other person authorized by law to use a controlled
7 substance in teaching or chemical analysis or to conduct research with
8 respect to a controlled substance.

9 (mm) "Prescriber" means a practitioner or a mid-level practitioner.

10 (nn) "Production" includes the manufacture, planting, cultivation,
11 growing or harvesting of a controlled substance.

12 (oo) "Readily retrievable" means that records kept by automatic data
13 processing applications or other electronic or mechanized recordkeeping
14 systems can be separated out from all other records within a reasonable
15 time not to exceed 48 hours of a request from the board or other authorized
16 agent or that hard-copy records are kept on which certain items are
17 asterisked, redlined or in some other manner visually identifiable apart
18 from other items appearing on the records.

19 (pp) "Ultimate user" means a person who lawfully possesses a
20 controlled substance for such person's own use or for the use of a member
21 of such person's household or for administering to an animal owned by
22 such person or by a member of such person's household.

23 Sec. 39. K.S.A. 2013 Supp. 65-6112 is hereby amended to read as
24 follows: 65-6112. As used in this act:

25 (a) "Administrator" means the executive director of the emergency
26 medical services board.

27 (b) "Advanced emergency medical technician" means a person who
28 holds an advanced emergency medical technician certificate issued
29 pursuant to this act.

30 (c) "Advanced practice registered nurse" means an advanced practice
31 registered nurse as defined in K.S.A. 65-1113, and amendments thereto.

32 (d) "Ambulance" means any privately or publicly owned motor
33 vehicle, airplane or helicopter designed, constructed, prepared, staffed and
34 equipped for use in transporting and providing emergency care for
35 individuals who are ill or injured.

36 (e) "Ambulance service" means any organization operated for the
37 purpose of transporting sick or injured persons to or from a place where
38 medical care is furnished, whether or not such persons may be in need of
39 emergency or medical care in transit.

40 (f) "Attendant" means a first responder, an emergency medical
41 responder, emergency medical technician, emergency medical technician-
42 intermediate, emergency medical technician-defibrillator, emergency
43 medical technician-intermediate/defibrillator, advanced emergency

- 1 medical technician, mobile intensive care technician or paramedic certified
2 pursuant to this act.
- 3 (g) "Board" means the emergency medical services board established
4 pursuant to K.S.A. 65-6102, and amendments thereto.
- 5 (h) "Emergency medical service" means the effective and coordinated
6 delivery of such care as may be required by an emergency which includes
7 the care and transportation of individuals by ambulance services and the
8 performance of authorized emergency care by a physician, advanced
9 practice registered nurse, professional nurse, a licensed physician assistant
10 or attendant.
- 11 (i) "Emergency medical technician" means a person who holds an
12 emergency medical technician certificate issued pursuant to this act.
- 13 (j) "Emergency medical technician-defibrillator" means a person who
14 holds an emergency medical technician-defibrillator certificate issued
15 pursuant to this act.
- 16 (k) "Emergency medical technician-intermediate" means a person
17 who holds an emergency medical technician-intermediate certificate issued
18 pursuant to this act.
- 19 (l) "Emergency medical technician-intermediate/defibrillator" means
20 a person who holds both an emergency medical technician-intermediate
21 and emergency medical technician-defibrillator certificate issued pursuant
22 to this act.
- 23 (m) "Emergency medical responder" means a person who holds an
24 emergency medical responder certificate issued pursuant to this act.
- 25 (n) "First responder" means a person who holds a first responder
26 certificate issued pursuant to this act.
- 27 (o) "Hospital" means a hospital as defined by K.S.A. 65-425, and
28 amendments thereto.
- 29 (p) "Instructor-coordinator" means a person who is certified under
30 this act to teach initial certification and continuing education classes.
- 31 (q) "Medical director" means a physician.
- 32 (r) "Medical protocols" mean written guidelines which authorize
33 attendants to perform certain medical procedures prior to contacting a
34 physician, physician assistant authorized by a physician, advanced practice
35 registered nurse authorized by a physician or professional nurse authorized
36 by a physician. The medical protocols shall be approved by a county
37 medical society or the medical staff of a hospital to which the ambulance
38 service primarily transports patients, or if neither of the above are able or
39 available to approve the medical protocols, then the medical protocols
40 shall be submitted to the medical advisory council for approval.
- 41 (s) "Mobile intensive care technician" means a person who holds a
42 mobile intensive care technician certificate issued pursuant to this act.
- 43 (t) "Municipality" means any city, county, township, fire district or

1 ambulance service district.

2 (u) "Nonemergency transportation" means the care and transport of a
3 sick or injured person under a foreseen combination of circumstances
4 calling for continuing care of such person. As used in this subsection,
5 transportation includes performance of the authorized level of services of
6 the attendant whether within or outside the vehicle as part of such
7 transportation services.

8 (v) "Operator" means a person or municipality who has a permit to
9 operate an ambulance service in the state of Kansas.

10 (w) "Paramedic" means a person who holds a paramedic certificate
11 issued pursuant to this act.

12 (x) "Person" means an individual, a partnership, an association, a
13 joint-stock company or a corporation.

14 (y) "Physician" means a person licensed by the state board of healing
15 arts to practice medicine and surgery.

16 (z) "Physician assistant" means a person who is licensed under the
17 physician assistant licensure act and who is acting under the direction of a
18 ~~responsible~~ *supervising* physician.

19 (aa) "Professional nurse" means a licensed professional nurse as
20 defined by K.S.A. 65-1113, and amendments thereto.

21 (bb) "Provider of training" means a corporation, partnership,
22 accredited postsecondary education institution, ambulance service, fire
23 department, hospital or municipality that conducts training programs that
24 include, but are not limited to, initial courses of instruction and continuing
25 education for attendants, instructor-coordinators or training officers.

26 (cc) "~~Responsible~~ *Supervising* physician" means—~~responsible~~
27 *supervising* physician as such term is defined under K.S.A. 65-28a02, and
28 amendments thereto.

29 (dd) "Training officer" means a person who is certified pursuant to
30 this act to teach, coordinate or both, initial courses of instruction for first
31 responders or emergency medical responders and continuing education as
32 prescribed by the board.

33 Sec. 40. K.S.A. 2013 Supp. 65-6124 is hereby amended to read as
34 follows: 65-6124. (a) No physician, physician assistant, advanced practice
35 registered nurse or licensed professional nurse, who gives emergency
36 instructions to an attendant as defined by K.S.A. 65-6112, and
37 amendments thereto, during an emergency, shall be liable for any civil
38 damages as a result of issuing the instructions, except such damages which
39 may result from gross negligence in giving such instructions.

40 (b) No attendant as defined by K.S.A. 65-6112, and amendments
41 thereto, who renders emergency care during an emergency pursuant to
42 instructions given by a physician, the ~~responsible~~ *supervising* physician for
43 a physician assistant, advanced practice registered nurse or licensed

1 professional nurse shall be liable for civil damages as a result of
2 implementing such instructions, except such damages which may result
3 from gross negligence or by willful or wanton acts or omissions on the part
4 of such attendant as defined by K.S.A. 65-6112, and amendments thereto.

5 (c) No person certified as an instructor-coordinator and no training
6 officer shall be liable for any civil damages which may result from such
7 instructor-coordinator's or training officer's course of instruction, except
8 such damages which may result from gross negligence or by willful or
9 wanton acts or omissions on the part of the instructor-coordinator or
10 training officer.

11 (d) No medical adviser who reviews, approves and monitors the
12 activities of attendants shall be liable for any civil damages as a result of
13 such review, approval or monitoring, except such damages which may
14 result from gross negligence in such review, approval or monitoring.

15 Sec. 41. K.S.A. 2013 Supp. 65-6129 is hereby amended to read as
16 follows: 65-6129. (a) (1) Application for an attendant's certificate shall be
17 made to the board. The board shall not grant an attendant's certificate
18 unless the applicant meets the following requirements:

19 (A) (i) Has successfully completed coursework required by the rules
20 and regulations adopted by the board;

21 (ii) has successfully completed coursework in another jurisdiction
22 that is substantially equivalent to that required by the rules and regulations
23 adopted by the board; or

24 (iii) has provided evidence that such applicant holds a current and
25 active certification with the national registry of emergency medical
26 technicians, completed emergency medical technician training as a
27 member of the army, navy, marine corps, air force, air or army national
28 guard, coast guard or any branch of the military reserves of the United
29 States that is substantially equivalent to that required by the rules and
30 regulations adopted by the board, and such applicant separated from such
31 military service with an honorable discharge;

32 (B) (i) has passed the examination required by the rules and
33 regulations adopted by the board; or

34 (ii) has passed the certification or licensing examination in another
35 jurisdiction that has been approved by the board; and

36 (C) has paid an application fee required by the rules and regulations
37 adopted by the board.

38 (2) The board may grant an attendant's certificate to any applicant
39 who meets the requirements under subsection (a)(1)(A)(iii) but was
40 separated from such military service with a general discharge under
41 honorable conditions.

42 (b) (1) The board shall not grant a temporary attendant's certificate
43 unless the applicant meets the following requirements:

1 (A) If the applicant is certified or licensed as an attendant in another
2 jurisdiction, but the applicant's coursework is determined not to be
3 substantially equivalent to that required by the board, such temporary
4 certificate shall be valid for one year from the date of issuance or until the
5 applicant has completed the required coursework, whichever occurs first;
6 or

7 (B) if the applicant has completed the required coursework, has taken
8 the required examination, but has not received the results of the
9 examination, such temporary certificate shall be valid for 120 days from
10 the date of the examination.

11 (2) An applicant who has been granted a temporary certificate shall
12 be under the direct supervision of a physician, a ~~physician's~~ *physician*
13 assistant, a professional nurse or an attendant holding a certificate at the
14 same level or higher than that of the applicant.

15 (c) The board shall not grant an initial emergency medical technician-
16 intermediate certificate, advanced emergency medical technician
17 certificate, mobile intensive care technician certificate or paramedic
18 certificate as a result of successful course completion in the state of
19 Kansas, unless the applicant for such an initial certificate is certified as an
20 emergency medical technician.

21 (d) An attendant's certificate shall expire on the date prescribed by the
22 board. An attendant's certificate may be renewed for a period of two years
23 upon payment of a fee as prescribed by rule and regulation of the board
24 and upon presentation of satisfactory proof that the attendant has
25 successfully completed continuing education as prescribed by the board.

26 (e) All fees received pursuant to the provisions of this section shall be
27 remitted to the state treasurer in accordance with the provisions of K.S.A.
28 75-4215, and amendments thereto. Upon receipt of each such remittance,
29 the state treasurer shall deposit the entire amount in the state treasury to
30 the credit of the emergency medical services operating fund established by
31 K.S.A. 65-6151, and amendments thereto.

32 (f) If a person who was previously certified as an attendant applies
33 for an attendant's certificate after the certificate's expiration, the board may
34 grant a certificate without the person completing an initial course of
35 instruction or passing a certification examination if the person has
36 completed education requirements and has paid a fee as specified in rules
37 and regulations adopted by the board.

38 (g) The board shall adopt, through rules and regulations, a formal list
39 of graduated sanctions for violations of article 61 of chapter 65 of the
40 Kansas Statutes Annotated, and amendments thereto, which shall specify
41 the number and severity of violations for the imposition of each level of
42 sanction.

43 Sec. 42. K.S.A. 2013 Supp. 72-8252 is hereby amended to read as

1 follows: 72-8252. (a) As used in this section:

2 (1) "Medication" means a medicine prescribed by a health care
3 provider for the treatment of anaphylaxis or asthma including, but not
4 limited to, any medicine defined in section 201 of the federal food, drug
5 and cosmetic act, inhaled bronchodilators and auto-injectible epinephrine.

6 (2) "Health care provider" means: (A) A physician licensed to
7 practice medicine and surgery; (B) an advanced practice registered nurse
8 issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who
9 has authority to prescribe drugs as provided by K.S.A. 65-1130, and
10 amendments thereto; or (C) a physician assistant licensed pursuant to the
11 physician assistant licensure act who has authority to prescribe drugs
12 pursuant to a written protocol with a ~~responsible~~ *supervising* physician
13 under K.S.A. 65-28a08, and amendments thereto.

14 (3) "School" means any public or accredited nonpublic school.

15 (4) "Self-administration" means a student's discretionary use of such
16 student's medication pursuant to a prescription or written direction from a
17 health care provider.

18 (b) Each school district shall adopt a policy authorizing the self-
19 administration of medication by students enrolled in kindergarten or any of
20 the grades 1 through 12. A student shall meet all requirements of a policy
21 adopted pursuant to this subsection. Such policy shall include:

22 (1) A requirement of a written statement from the student's health
23 care provider stating the name and purpose of the medication; the
24 prescribed dosage; the time the medication is to be regularly administered,
25 and any additional special circumstances under which the medication is to
26 be administered; and the length of time for which the medication is
27 prescribed;

28 (2) a requirement that the student has demonstrated to the health care
29 provider or such provider's designee and the school nurse or such nurse's
30 designee the skill level necessary to use the medication and any device that
31 is necessary to administer such medication as prescribed. If there is no
32 school nurse, the school shall designate a person for the purposes of this
33 subsection;

34 (3) a requirement that the health care provider has prepared a written
35 treatment plan for managing asthma or anaphylaxis episodes of the student
36 and for medication use by the student during school hours;

37 (4) a requirement that the student's parent or guardian has completed
38 and submitted to the school any written documentation required by the
39 school, including the treatment plan prepared as required by paragraph (3)
40 and documents related to liability;

41 (5) a requirement that all teachers responsible for the student's
42 supervision shall be notified that permission to carry medications and self-
43 medicate has been granted; and

1 (6) any other requirement imposed by the school district pursuant to
2 this section and subsection (e) of K.S.A. 72-8205, and amendments
3 thereto.

4 (c) A school district shall require annual renewal of parental
5 authorization for the self-administration of medication.

6 (d) A school district, and its officers, employees and agents, which
7 authorizes the self-administration of medication in compliance with the
8 provisions of this section shall not be held liable in any action for damage,
9 injury or death resulting directly or indirectly from the self-administration
10 of medication.

11 (e) A school district shall provide written notification to the parent or
12 guardian of a student that the school district and its officers, employees
13 and agents are not liable for damage, injury or death resulting directly or
14 indirectly from the self-administration of medication. The parent or
15 guardian of the student shall sign a statement acknowledging that the
16 school district and its officers, employees or agents incur no liability for
17 damage, injury or death resulting directly or indirectly from the self-
18 administration of medication and agreeing to release, indemnify and hold
19 the school and its officers, employees and agents, harmless from and
20 against any claims relating to the self-administration of such medication.

21 (f) A school district shall require that any back-up medication
22 provided by the student's parent or guardian be kept at the student's school
23 in a location to which the student has immediate access in the event of an
24 asthma or anaphylaxis emergency.

25 (g) A school district shall require that information described in
26 paragraphs (3) and (4) of subsection (b) be kept on file at the student's
27 school in a location easily accessible in the event of an asthma or
28 anaphylaxis emergency.

29 (h) An authorization granted pursuant to subsection (b) shall allow a
30 student to possess and use such student's medication at any place where a
31 student is subject to the jurisdiction or supervision of the school district or
32 its officers, employees or agents.

33 (i) A board of education may adopt a policy pursuant to subsection
34 (e) of K.S.A. 72-8205, and amendments thereto, which:

35 (1) Imposes requirements relating to the self-administration of
36 medication which are in addition to those required by this section; and

37 (2) establishes a procedure for, and the conditions under which, the
38 authorization for the self-administration of medication may be revoked.

39 New Sec. 43. (a) Unless otherwise specified, the administration and
40 procedural provisions of the Kansas healing arts act shall apply to any
41 profession regulated by the board.

42 (b) This section shall be part of and supplemental to the Kansas
43 healing arts act.

1 New Sec. 44.—(a) There is hereby created an interim license. The
2 board is authorized to issue an interim license to a person who:—

3 (1) ~~Makes written application for such license on a form provided by~~
4 ~~the board;~~

5 (2) ~~remits the fee for an interim license;~~

6 (3) ~~has successfully completed at least one year of a postgraduate~~
7 ~~training program approved by the board;~~

8 (4) ~~is engaged in a full-time postgraduate training program approved~~
9 ~~by the board; and~~

10 (5) ~~has passed the examinations for licensure required under K.S.A.~~
11 ~~65-2873, and amendments thereto.—~~

12 (b) ~~The requirements for issuance and renewal of an interim license~~
13 ~~shall be established by rules and regulations adopted by the board. An~~
14 ~~interim license shall entitle the holder to all privileges attendant to the~~
15 ~~branch of the healing arts for which such license is used.~~

16 (c) ~~This section shall be part of and supplemental to the Kansas~~
17 ~~healing arts act.~~

18 New Sec. ~~45~~ 44. (a) Any violation of the provisions of the physician
19 assistant licensure act shall constitute a class B misdemeanor.

20 (b) When it appears to the board that any person is violating any of
21 the provisions of the physician assistant licensure act, the board may bring
22 an action in the name of the state in a court of competent jurisdiction for
23 an injunction against such violation, without regard to whether
24 proceedings have been or may be instituted before the board or whether
25 criminal proceedings have been or may be instituted.

26 (c) The board, in addition to any other penalty prescribed under the
27 physician assistant licensure act, may assess a civil fine, after proper notice
28 and an opportunity to be heard, against a licensee for a violation of the
29 physician assistant licensure act in an amount not to exceed \$5,000 for the
30 first violation, \$10,000 for the second violation and \$15,000 for the third
31 violation and for each subsequent violation. All fines assessed and
32 collected under this section shall be remitted to the state treasurer in
33 accordance with the provisions of K.S.A. 75-4215, and amendments
34 thereto. Upon receipt of each such remittance, the state treasurer shall
35 deposit the entire amount in the state treasury to the credit of the state
36 general fund.

37 (d) Costs assessed by the board pursuant to subsection (c) shall be
38 considered costs in an administrative matter pursuant to 11 U.S.C. § 523.
39 If the board is the unsuccessful party, the costs shall be paid from the
40 healing arts fee fund.

41 (e) This section shall be part of and supplemental to the physician
42 assistant licensure act.

43 New Sec. ~~46~~ 45. (a) It shall be the duty of each licensee to notify the

1 board in writing within 30 days of any changes in the licensee's home
2 mailing address or primary practice mailing address.

3 (b) In addition to any other penalty prescribed under the physician
4 assistant licensure act, the board may assess a civil fine for a violation of
5 subsection (a) in an amount not to exceed \$100 for a first violation and
6 \$150 for each subsequent violation.

7 (c) Costs assessed by the board pursuant to subsection (b), shall be
8 considered costs in an administrative matter pursuant to 11 U.S.C. § 523.
9 If the board is an unsuccessful party, the costs shall be paid from the
10 healing arts fee fund.

11 (d) This section shall be part of and supplemental to the physician
12 assistant licensure act.

13 **New Sec. 4746.** (a) There is hereby created a license by endorsement.
14 The board is authorized to issue a license by endorsement without
15 examination to a person who has been in active practice as a physician
16 assistant in some other state, territory, District of Columbia or other
17 country upon certificate of the proper licensing authority of that state,
18 territory, District of Columbia or other country certifying that the applicant
19 is duly licensed, that the applicant's license has never been limited,
20 suspended or revoked, that the licensee has never been censured or had
21 other disciplinary action taken and that, so far as the records of such
22 authority are concerned, the applicant is entitled to its endorsement. The
23 applicant shall also present proof satisfactory to the board:

24 (1) That the state, territory, District of Columbia or country in which
25 the applicant last practiced has and maintains standards at least equal to
26 those maintained by Kansas;

27 (2) that the applicant's original license was based upon an
28 examination at least equal in quality to the examination required in this
29 state and that the passing grade required to obtain such original license
30 was comparable to that required in this state;

31 (3) the date of the applicant's original and all endorsed licenses, and
32 the date and place from which any license was attained;

33 (4) that the applicant has been actively engaged in practice under
34 such license or licenses since issuance. The board may adopt rules and
35 regulations establishing appropriate qualitative and quantitative practice
36 activities to qualify as active practice; and

37 (5) that the applicant has a reasonable ability to communicate in
38 English.

39 (b) An applicant for a license by endorsement shall not be licensed
40 unless, as determined by the board, the applicant's qualifications are
41 substantially equivalent to Kansas requirements. In lieu of any other
42 requirement prescribed by law for satisfactory passage of any examination
43 for physician assistants, the board may accept evidence demonstrating that

1 the applicant or licensee has satisfactorily passed an equivalent
2 examination given by a national board of examiners for physician
3 assistants.

4 (c) This section shall be part of and supplemental to the physician
5 assistant licensure act.

6 ~~Sec. 48~~ 47. K.S.A. 65-2803, 65-2812, 65-2833, 65-2839a, 65-2840a,
7 65-2842, 65-2846, 65-2850, 65-2852, 65-2857, 65-2858, 65-2860, 65-
8 2863a, 65-2864, 65-2865, 65-2866, 65-28a02, 65-28a06, 65-28a07, 65-
9 28a08, 65-28a09 and 65-28a11 and K.S.A. 2013 Supp. 8-1001, 38-2310,
10 40-2123, 65-1626, 65-2802, 65-2809, 65-2836, 65-2837, 65-2838, 65-
11 2838a, 65-2844, 65-2851a, 65-2867, 65-28a03, 65-28a05, 65-28a10, 65-
12 4101, 65-6112, 65-6124, 65-6129 and 72-8252 are hereby repealed.

13 ~~Sec. 49~~ 48. This act shall take effect and be in force from and after
14 July 1, 2015 and its publication in the statute book.